Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

THE ACTS OF THE HOLY SEE, CAREFULLY COMPILED AND ILLUSTRATED WITH THE STUDY AND CARE OF VICTOR PIAZZESI, DOCTOR OF BOTH LAWS. Legal and more solemn acts emanating directly from the Supreme Pontiff: acts among those which can be made public by law, whether they are Decrees, or Instructions, or Responses, or other similar matters; especially, expositions and resolutions of cases from the Sacred Congregations of various Cardinals, carefully compiled in summary form, contributing to the accurate understanding and observance of ecclesiastical law: and finally, other legal matters, by which those things which may present difficulty in the aforementioned acts are suitably explained, or which further contribute to the knowledge of existing law: for the benefit of those who diligently seek to understand the laws of the Church, and who labor diligently in the governance of the Christian flock, or in cultivating the vineyard of the Lord.

ROME, FROM THE PRINTING PRESS OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 1890-91.

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[*Latin ed. p. 3*]

TO THE MOST EMINENT CARDINAL LAVIGERIE, ARCHBISHOP OF CARTHAGE AND ALGIERS, ON THE OCCASION WHEN A COMPANY OF MISSIONARIES SET OUT FOR THE DEEPER PARTS OF AFRICA. Venerable Brother, greetings and apostolic blessing. We were most pleasantly delighted by the letters which you sent us, with which, with a grave and devout spirit, you spoke of the day on which you addressed the company of Algerian Missionaries, which was about to set out for the more remote parts of Africa. But we were even more deeply moved when we learned more clearly about the work which they are undertaking, amidst great difficulties, to cultivate the people of Africa with more human care; a work which, as you well know, we embrace with singular favor and are ready to assist with all our power. Therefore, we give thanks to the most high God for His providence, which excites generous men and chooses virtuous men, who dedicate themselves to this noble work, and which gives strength and growth to their evangelical ministry with abundant and joyful fruit. These endeavors of the Missionaries are plainly a source of great joy, who, emu-

lating the first heralds of the Gospel, strive to explore the hidden depths of inner Africa, where no light has yet shone, so that they may illuminate them with the light of the revelation of the glory of Jesus Christ. But it is even more pleasing that the princes of the barbarian nations readily embrace the Christian faith and implore a greater number of workers, so that the Kingdom of God may be spread more quickly in their regions. While we acknowledge these benefits of divine providence, we also marvel at it in the zeal with which the rulers of the peoples who are in Europe, with their powerful resources, defend the cause of humanity in Africa. A significant example of this zeal was provided by the solemn assembly recently held in BRUSSELS, at which these same rulers, through their representatives, so generously accepted the patronage of that cause which we favor. There, the deliberations of those assembled seemed to be directed towards averting the ruin which Africa suffers from the greed of many, who, unworthy of the name of men, practice barbarity with cruelty and cunning.

[*Latin ed. p. 4*]

4. Letters encourage trade with the Negroes, who, despite their appearance, are presented as images of the Creator of God, and, being participants in the common nature, are to be considered equal in rights with all other men. We follow with merit, praise, and grateful hearts these noble endeavors of the Princes of Europe; therefore, we strive to ensure that their councils, both in their auspicious and complete outcomes, and in their diligent execution, are favored, and we spare no effort to ensure that all of Africa may enjoy the laws and customs that befit the dignity of mankind, redeemed by Christ. Furthermore, we must devote our principal efforts to ensuring the greatest possible number of Apostolic men, who will spread the light of the Gospel in these regions, which is a singular zeal and tireless diligence that is most pleasing to us. For although there are many reasons and resources, each with its own power, and opportunities to cultivate the well-being of the Africans, nothing is more effective or more appropriate to the nature of this undertaking and the spirit of the Gospel than the abundant sending of heralds of truth, who, like a legion, fearlessly undertake this work, as past experience and the recent memory of well-managed affairs demonstrate. Indeed, the holy soldiers of Christ, not tempted by greed or the pursuit of glory, but solely moved by the voice of the calling God, and suitably prepared for this task, fear no misfortune. It was this charity that inflamed the Son of God, so that He might sacrifice Himself for the salvation of the human race, abandoning His home and homeland, so that, free from all other occupations, He might dedicate Himself to a most noble and divine ministry, to which He devoted His strength and His life. Therefore, it is not surprising that the heroic virtue of men of this kind, who subject the appetites of the flesh to the spirit, can accomplish wonders through which the Spirit of the Lord, teaching through the Apos-

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tles, renews the face of the earth, and pours forth the light of faith into peoples sitting in darkness, never failing. Therefore, we earnestly desire and supplicate God that, even though there exists a fierce hatred of the wicked against the clergy and religious societies, there may be as many Apostolic men as possible who, moved by the spirit of Christ, sow the word of God widely in Africa, and that they may water it profusely with their blood, so that, if the work is to be done, it will not only be done, but also bear fruit. For wherever the revered sign of redemption has been raised, there civil culture and all the arts of a more refined humanity will quickly flourish alongside the cross. And we do not doubt that you, our beloved son, will obey our exhortation and fulfill your priestly duty.

[*Latin ed. p. 5*]

With zeal and diligence, the *Litterae* and industry are employed in this work, to which We, following the example of Our predecessors, dedicate Ourselves, and to which We apply Ourselves with great care, especially concerning the Apostolate. Finally, We do not wish to refuse the pleasure that arises from the wise counsel of that society which combats the African servitude, so that a contest may be instituted among men of outstanding talent and learning, in which a prize will be awarded to the author of the work that is judged most suitable among the others, so that the enslavement and servitude of the Negroes may be utterly condemned and rejected by all. Therefore, We ask you to grant a prize, so that mention of Our name may be made in this way, so that this matter may appear most pleasing to Us. But, although all this care and diligence is worthy of praise, since it aims to kindle the zeal and unite the wills of men to carry out an equally arduous and salutary undertaking, the greatest expense is that of heavenly grace, which will be more readily and constantly present to those who work, through fervent prayers. In the meantime, We offer You, Our beloved son, together with the clergy and faithful entrusted to your care, Our Apostolic Blessing, as a pledge of the divine favor and paternal benevolence. Given in Rome, at St. Peter's, on the 17th day of July, in the year 1890, in the thirteenth year of Our Pontificate. FROM THE CONSISTORY ACTS Concerning the Consistory held on June 23rd and 26th, 1890. The Most Holy Father gave an address in the Consistory on June 23rd, and in the Consistory on June 26th, a protestation against the civil law concerning pious works, which are justly abhorred: ADDRESS Venerable Brothers. Today, Our cares merit the praise of the illustrious Catholic nation, which holds Mount Lebanon, for its profane letters and, more often, for its divine hymns;

[*Latin ed. p. 6*]

6. By the beauty of the place, and by the clemency of the heavenly and ecclesiastical authorities, this region is distinguished. The region is adorned with illustrious cities, mountains adjacent to its roots, monuments of piety

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and religion, and a great number of dwellings, with a frequent population residing therein; in this place, indeed, their ancestors found refuge in times of calamity, adhering to the Catholic religion. The Lebanon is widely inhabited by Maronites, spread throughout the gentle hills; there, the Patriarchal See has its seat; a people renowned for their deeds, who, when King Lewis of France was leading the campaign against the Saracens, offered him zealous assistance, providing arms; yet, their nobility lies in the fact that they preserved the Catholic faith among many criminals and laborers, maintaining it whole and undefiled. In this people, it happened that, in the month of April just past, the Patriarchal See of Antioch was left without a shepherd, due to the death of the venerable Father Paul Peter Massad. After the death of the Patriarch, the Maronite Bishops, on the 28th day of that same month, held a common assembly, for the purpose of choosing a successor. With hearts full of concord and deliberation, they proclaimed the venerable Father John Hagg, Archbishop of Heliopolis, a Maronite, as Patriarch of the Maronites; a man renowned for his prudence, who had diligently attended to the affairs of the Church after the death of the Patriarch. Then, as was fitting, the suffragan Bishops and the Patriarch, elected by them, presented to us letters, setting forth the matter, which we, praising, deem it necessary to approve and confirm, by our Apostolic authority, the election itself. Furthermore, having learned from our Council, which we have established with great care for the propagation of the rites of the Orient, that the Council, having considered the matter in its entirety, deemed it advisable to implore us, that, as far as possible, we might grant our approval to the prayers of the Maronite prelates, in order that all those vices which might have arisen in the election might be remedied. Our paternal care for the Maronite people compels us to readily grant them what is within our power: and since it is our greatest desire that the Maronite Church may prosper, we have commanded our Council, which we have appointed for the affairs of the Oriental rites, to take care that it enacts whatever is necessary, so that ecclesiastical discipline may be observed more accurately and completely, according to the decrees of the Synod of Lebanon, held in the year 1636. Now, with firm confidence, we believe that the elected Patriarch, with greater diligence...

[*Latin ed. p. 7*]

From the Consistorial Acts, it is evident that he strives, with the utmost diligence, to merit the esteem of the Church and the Maronite people through his vigilance, works, and solicitude for their religion. We have considered his election or petition for the Maronite Patriarchate of Antioch to be valid and worthy of approval, and we have deemed it fitting, as a clear demonstration of our affection, to adorn him with the sacred pallium, taken from the relics of the Blessed Peter, as he requests. What do you think?

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By the authority of Almighty God, of the holy Apostles Peter and Paul, and by our own authority, we approve and ratify the election or petition made by the Venerable Brothers, the Maronite Bishops, concerning the Venerable Brother John Peter Hagg, so that it may be valid, and we declare that all faults or vices that might have hindered this election are hereby absolved. We release him from the bond that ties him to the Maronite Church of Heliopolis, and we raise him to the Patriarchal Church of the Maronites of Antioch, together with all the privileges that his predecessors have customarily enjoyed from this Apostolic See, and we promote him as Patriarch and shepherd of the faithful Maronites, as will be indicated in the aforementioned consistorial decree and schedule. We constitute and declare this, notwithstanding any contrary provisions. In the Name of the Father, and of the Son, and of the Holy Spirit. Amen.

Therefore, having duly completed these matters pertaining to the Oriental Church, it is our intention to honor the distinguished members of your Order, those four men who, whether in the exercise of the episcopal ministry or in the affairs of this Apostolic See, have constantly demonstrated integrity, faith, prudence, and a zealous devotion to the Church. These are: Vincent Vannutelli, Archbishop of the titular see of Sardes, who, as the faithful Ordinary of Our Nuncio in Lusitania and Algarb, has faithfully fulfilled his duties; he was created Cardinal by the Most Holy Roman Church and reserved for Our consideration in the Consistory held on December 30, 1889; also, Sebastian Galeati, Archbishop of Ravenna; Gaspar Mermillod, Bishop of Lausanne and Geneva; and Albin Dunajewski, Bishop of Cracow. What do you think?

And so, by the authority of Almighty God and of the holy Apostles...

[*Latin ed. p. 8*]

8 FROM THE ACTS OF THE CONSISTORY of Peter and Paul, and Ours, We publish that the Most Holy Roman Church elevates to the dignity of Cardinal the Reverend Vincent Vannutelli. Furthermore, We publish that the Most Holy Roman Church elevates to the dignity of Cardinal the Reverend Fathers Sebastian Galeati, Gaspare Mermillod, and Albinus Dunajewski, with the necessary dispensations, derogations, and clauses. In the Name of the Father, and of the Son, and of the Holy Spirit. Amen.

PROTESTATION. Venerable Brothers, as We spoke to you last year in this very place, moved by the harshness of events, We indicated several things as recent wounds inflicted upon the Church and the Apostolic See. In particular, We mentioned the law concerning Charitable Works, which We, as you remember, reprehended as being manifestly unjust, and which We did not fail to condemn for the sake of our apostolic office. But since it is nonetheless desired that the course of this law be completed, We cannot help but raise our voice, and with a free spirit, lament that a hostile force pursues even the last vestiges of ecclesiastical goods. Indeed, in this long-

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standing war against the Church, daily and insidious acts are committed. Nevertheless, We do not despair, because We place our greatest and firmest hope in heavenly assistance. God Himself will vindicate His rights, and He will grant to us, who labor for His glory and the salvation of men, both the strength to fight and the ability to conquer.

[*Latin ed. p. 9*]

FROM THE CONSISTORY ACTS:

9. Having completed these matters, the following sees were presented:

THE PATRIARCHAL CHURCH OF ANTIOCH. Vacant due to the death of the Most Reverend Paul Massad, the last Patriarch, who died outside the Roman Curia. With the favor of the Most Reverend Doctor John Hagg, Archbishop of Heliopolis of the Maronite rite, who, with the unanimous consent and acclamation of the Catholic bishops in the convent of Saint Mary of Becorki, in Mount Lebanon, was elected and presented as John Peter.

THE CATHEDRAL CHURCHS OF PENNEN AND ATRI, which are perpetually and canonically united, are vacant due to the death of the Most Reverend Aloysius Martucci, the last Bishop, who died outside the Roman Curia. With the favor of the Reverend Joseph Morticelli, a priest of Sulmona. Who, having been born of legitimate, Catholic, and honorable parents in Sulmona, and having reached the sixty-sixth year of his age, having previously served as an examiner for the Synodus, and as a Promoter Fiscalis in the Curia, and as Prefect of the Congregation for moral and legal causes, has now resigned from his position as Canon of the Cathedral.

THE METROPOLITAN CHURCH OF VIENNA, in Austria, is vacant due to the death of the Most Reverend Celestine, formerly a Cardinal Priest. With the favor of the Reverend Father Anthony Gruscha, titular Bishop of Carrhens.

THE METROPOLITAN CHURCH OF HYDRUNTUM. Vacant due to the death of the Most Reverend Salvatore Brunonis Bressi, the last Archbishop, who died outside the Roman Curia. With the favor of the Reverend Caietan Caporali, General Director of the Congregation of the Precious Blood of Our Lord Jesus Christ, a priest of the archdiocese of Lanciano. Who, having been born of legitimate, Catholic, and honorable parents in the place which today is commonly called Castelfrentano, formerly Castronovo, in the archdiocese of Lanciano, and having reached the sixty-sixth year of his age, has fulfilled the duties of his Congregation as Definitor, Vice-Director, and until now, as General Director.

THE EPISCOPAL CHURCH OF NIPOLITAN, under the Archiepiscopal See of Damiata, is vacant due to the succession to the See of Angers, of the Most Reverend Francis de Souza Lacerda. With the favor of the Reverend

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Joseph Consenti of the Congregation of the Most Holy Redeemer, a priest of the archdiocese of Hydruntum; who was also deputed in Co-.

[*Latin ed. p. 10*]

10 FROM THE CONSISTORIAL ACTS, concerning the future succession of the Reverend Father John Acquaviva, the Prelate of Nusco. The Reverend Father Joseph Consentiex, born of legitimate, Catholic, and honorable parents in the town of Salento, in the province of Galatina, within the archdiocese of Otranto, having surpassed the fifty-sixth year of his age, having been assigned to the Theanense congregation in his own city, has preached the word of God in many places, and also completed the month of Mary in Rome, at the church of Saint Alphonsus in Esquiline.

THE METROPOLITAN CHURCHES OF AGERUNTIN and MATHERAN are perpetually and canonically united; they are vacant, due to the death of the Most Reverend Jesualdo Nicholas Loschirico, the last Archbishop of those sees, who died outside the Roman court, by the favor of the Reverend Father Francis Mary Imparati, of the Order of the Friars Minor of the Observance of Saint Francis, the Prelate of Venusia.

THE CATHEDRAL CHURCH OF NOLAN is vacant, due to the death of the Most Reverend Joseph Formisano, the last Bishop of that see, who died outside the Roman court, by the favor of the Reverend Father Agnelli Renzullo, the Prelate of Asernia and Venafra.

THE EPISCOPAL CHURCH, TITULAR, OF PHILOMELIA, under the Archbishop of Synnada, is vacant, due to the death of the Most Reverend Stephen Neszveda, the last Bishop of that see, who died outside the Roman court, by the favor of the Reverend Father Anthony Andrzejevicz, a priest of the archdiocese of Gnesen. He was born of legitimate, Catholic, and honorable parents in the village of Kotowiecko, in the parish of Droszew, and having surpassed the fifty-third year of his age, he is a general counselor of the archiepiscopal consistory, a synodal examiner, a synodal judge, a censor of books, and a cathedral preacher. He has been appointed a canon of the metropolitan church of Gnesen, from the supernumerary positions of the Sacred Congregation, and of the present Gnesen metropolitan church.

THE EPISCOPAL CHURCH, TITULAR, OF TIBERIADES, under the Archbishop of Petrensis, is vacant, due to the translation of the Reverend Father Martin Marty to the Cathedral See of Sioux Falls, by the favor of the Reverend Father Joseph Ceppetelli, the Bishop of Ripa.

THE CATHEDRAL CHURCH OF RIPA is vacant, due to the translation of the Reverend Father Joseph Ceppetelli to the titular church of Tiberiades, by the favor of the Reverend Father Hyacinth Nicholas, a priest of the diocese of Ripa. He was born of legitimate, Catholic, and honorable parents in the town of Montisprando, in the diocese of Ripa, and having surpassed

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the fifty-sixth year of his age,

[*Latin ed. p. 11*]

FROM THE CONSISTORY ACTS:

The Canon of Narni, who had previously served as Professor of Dogmatic Theology and Biblical Studies, and as Rector, and who was also a Synodal Examiner in his diocese, and who had served as Abbot Parochial of the Church of Saint Benedict, near Truentum, in the diocese of Ripà, was appointed to the titular Episcopal Church of Cydon, vacant under the Cretan Archbishop, by translation to the Lahore See, the Reverend Father Szymphoriani Monard, of the Order of the Friars Minor Capuchin of Saint Francis, favored by the Reverend Doctor Angelo Boccamazzi, a Priest of the Benevento Archdiocese. He was born in the town of Tufacia, in the Benevento Archdiocese and Molisana Province, from legitimate, Catholic, and honorable parents, and had already surpassed his seventy-seventh year of age. He had received a doctorate in both laws, and had been honored with the title of Secret Chamberlain by Pope Pius IX, and is now appointed as a Vicar General for spiritual affairs by His Eminence, Cardinal Camillo S.R.E., a Priest of Sicily, of Rende, Archbishop of Benevento, as Administrator of the Apostolic See of Lucera.

The titular Episcopal Church of Derben, vacant under the Antiochene Archbishop of Pisidia, was assigned by translation to the Cathedral See of Osca, the Reverend Father Vincent Aldaet Sancho, favored by the Reverend Father Peter Podaliri, a Priest of Recanati; who had also been appointed as an Auxiliary to the Reverend Father Thomas Gallucci, Bishop of Recanati and Lauretani. The Reverend Father Peter Podaliri was born in Recanati from legitimate, Catholic, and noble parents, and having reached his seventieth year of age, he had been awarded a doctorate in both laws, and had fulfilled the duties of Judge, Synodal Examiner, and Seminary Deputy, and was also appointed as a supernumerary Chamberlain to His Holiness, and is now appointed as the Cathedral Praepositus of his native diocese.

The Cathedral Church of Lipari was vacant, and the Reverend Father Mariani Palermo was assigned by translation to the Cathedral See of Piazza Armerina, favored by the Reverend Father John Peter Natoli, a Priest of Lipari. He was born in Lipari from legitimate, Catholic, and honorable parents, and having surpassed his sixty-first year of age, he had served as the Cathedral Church's Chaplain, and as Master of the entire diocese, and had held the second dignity of Dean there, and is now appointed as the Apostolic Administrator for the present of the same diocese.

[*Latin ed. p. 12*]

12 FROM THE CONSISTORY ACTS, the Cathedral Church of FERTRÀN

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is vacant, due to the death of the Most Reverend Aloysius Mariotti, the last Bishop of that diocese, with the favor of the Reverend Charles Bonaiuti, a priest of the Archdiocese of Bologna. The Reverend Charles Bonaiuti, born of legitimate, Catholic, and honorable parents in the Archdiocese of Bologna, having reached the sixty-second year of his age, having served as Rector of the rural parish of Mascarino, commonly called thus, and having been appointed Archpriest and Parish Priest of the Church of Saint Peter in the same Archdiocese, has now resigned.

The Cathedral Church of DERTHONEN is vacant, due to the death of the Most Reverend Vincent Capelli, the last Bishop of that diocese, having died outside the Roman Curia, with the favor of the Reverend Hyginus Bandi, a priest of the Diocese of Viglevano. He was born of legitimate, Catholic, and honorable parents in the place of Zemidae (Zeme) in the Diocese of Viglevano, and having reached the forty-third year of his age, he was appointed as a Synodical Examiner, and subsequently served as Pro-Vicar General and Vicar General, and has now resigned.

The Cathedral Church of GUASTALLA is vacant, due to the death of the Most Reverend Prosper Curti, the last Bishop of that diocese, having died outside the Roman Curia, with the favor of the Reverend Andrea Ferrari, a priest of the Diocese of Parma. He was born of legitimate, Catholic, and honorable parents in the parish of Pratiplano, commonly called Pratopiano, in the Diocese of Parma, and having reached the fortieth year of his age, having previously been awarded a doctorate in sacred theology, he was chosen for the esteemed College of Theologians of Parma, and having served as an Orator, Theologian, Pro-Vicar General, and Pro-Synodal Examiner, he has now resigned from his position as Canon of the Basilica-Cathedral of Parma.

The Cathedral Church of EBROICEN is vacant, due to the death of the Most Reverend Francis Grolleau, the last Bishop of that diocese, having died outside the Roman Curia, with the favor of the Reverend Francis Hautin, a priest of Paris, at the nomination of the most illustrious man, Francis Maria Sad iCarnot, President of the French Republic. The Reverend Francis Hautin, born of legitimate, Catholic, and honorable parents in Paris, having reached the fifty-ninth year of his age, having been appointed Canon of the Chapter of Paris and of Aurelian, and having previously resigned as Vicar General of Aurelian.

The Cathedral Church of DIVIONEN is vacant, due to the translation of the Reverend Father Victor Luciani Sulpitii Lécot to the Metropolitan See.

[*Latin ed. p. 13*]

FROM THE CONSISTORY ACTS, on the 13th, from Bordeaux, with the favor of the Most Reverend Father Frederick Henry Oury, Bishop of Forojulia.

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THE METROPOLITAN CHURCH OF BURDIGALA is vacant, due to the death of the esteemed Master Amatus Victor Francis, a Cardinal of the Holy Roman Church, while he still lived. The previous Archbishop, the last of that rank outside the Roman court, having died. With the favor of the Most Reverend Father Victor Lucian Sulpitius Lécot, Bishop of Dijon.

THE CATHEDRAL CHURCH OF FOROJULIA is vacant, due to the translation of the Most Reverend Father Frederick Henry Oury to the See of Dijon. With the favor of the Reverend Eudoxius Edward Ireneus Mignot, a priest of Soissons. He, born of legitimate, Catholic, and honorable parents in the place called Braneau, in the diocese of Soissons, and having reached the forty-eighth year of his age, was chosen as a Canon of the Chapter of Soissons, and was appointed as the General Vicar of that city and diocese.

THE EPISCOPAL TITULAR CHURCH OF GERREN, under the Patriarch of Alexandria, is vacant, due to the succession of the Most Reverend Henry Charles Camille Lambrecht to the See of Gand. With the favor of the Most Reverend Father John Ferdinand Jacob Esberard, a priest of the diocese of Saint Sebastian of the River January, who was also appointed as a coadjutor with future succession to the Most Reverend Father Joseph Pereira da Silva Barros, Bishop of Olinda in Brazil.

The Most Reverend Father John Ferdinand Jacob Esberard was born of legitimate, Catholic, and honorable parents in the parish of Saint Joseph, in the diocese of Barcelona, and having surpassed the forty-fourth year of his age, for many years administering the souls of the Church of the Holy Theresa in the diocese of Saint Sebastian. He was admitted among the clergy of His Holiness Urban.

THE CATHEDRAL CHURCH OF BELEM, in Para in Brazil, is vacant, due to the translation of the Most Reverend Father Anthony de Macedo Costa to the metropolitan See of Saint Salvador in Brazil, with the favor of the Reverend Jerome Thomas da Silva, a priest of the diocese of Tortalexien. He, born of legitimate, Catholic, and honorable parents in the place called Sobral, now called the diocese of Fortaleza, and having surpassed the forty-first year of his age, was enrolled among the students of the Pontifical College of the Americas in Rome, and having received the doctorate in philosophy and sacred theology, was appointed as a Pro-Vicar and Secretary to that Bishop. Having been rightfully withdrawn from his diocese, and assigned to the clergy of Olinda, he is there in the ecclesiastical forum as a Promoter, and in himself.

[*Latin ed. p. 14*]

14 FROM THE ACTS OF THE CONSISTORY, the Reader in Philosophy, and having held the professorship of the Italian language at the gymnasium of Ölinda, has been appointed to the titular episcopal see of Eucarpia, under the Archiepiscopal jurisdiction of Synnada, vacant due to the translation of the Reverend Father Edward Gasnier to the See of Malaca,

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with the favor of the Reverend Father Emmanuel dos Santos Pereira, a priest of Saint Salvator; who also was appointed as an Auxiliary Bishop to the Most Reverend Antony de Macedo Costa, Archbishop of Saint Salvator in Brazil. The Reverend Father Emmanuel dos Santos Pereira, born of legitimate, Catholic, and honorable parents in Saint Salvator in Brazil, having surpassed his sixty-third year, having served as a General Vicar and Synodal Examiner, having previously been an Archdeacon in his own patriarchate, and still holding the dignity of Cantor there, was admitted among the Protonotaries Apostolic. The Cathedral Church of Saint Peter of Grande do Sul in Brazil, vacant due to the death of the Reverend Monsignor Sebastian Dias Larangeira, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Claudius Joseph Goncalves Ponce de Leão, Bishop of Goyas. The titular episcopal see of Camaca, under the Patriarchate of Constantinople, vacant due to the death of the Reverend Monsignor Peter Ewjik, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Silverius Gomes Pimenta, a priest of the diocese of Marianna in Brazil; who also was appointed as an Auxiliary Bishop to the Most Reverend Anthony Maria de Sae and Benavides, Bishop of Marianna in Brazil. The Reverend Father Silverius Tomes Pimenta, born of legitimate, Catholic, and honorable parents in the parish of Our Lady of ConcepciÃ³n, commonly known as Congonhas de Campo, in the diocese of Marianna, having surpassed his forty-ninth year, having previously served as a Capitular Vicar, and then as a General Vicar in spiritual matters, and still performing that office, was admitted among the Holy Urban Prelates and Protonotaries Apostolic, as if participating in their ranks. The titular episcopal see of Myrina, under the Archiepiscopal jurisdiction of Ephesus, vacant due to the death of the Reverend Monsignor Joseph Andrea Boyer, the last Bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Isidore Barriga, a priest of the diocese of Portus Veteris (Manabi), who was born of legitimate, Catholic, and honorable parents in the town now called Iipyapa, in the diocese of Portus Veteris.

[*Latin ed. p. 15*]

FROM THE CONSISTORY ACTS: And in the thirty-eighth year of his age, he was appointed in the city of Quito, as assessor of causes, which the parish priests and pious places present annually, and as substitute for the general vicar, and was added to the affairs of justice in the contentious forum, and was chosen as a canon of that metropolitan church. The Archbishop of Quito, as Apostolic Administrator of the diocese of Guayaquil, appointed him there ten years ago as general vicar, and most recently he was appointed by the Holy Apostolic See as Apostolic Administrator. The CATHEDRAL CHURCH OF GOYAS, in Brazil, became vacant, through the translation of the Reverend Father Claudius Joseph Gonçalves Ponde de

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Leão to the See of St. Peter in Fluminis Grandensis Australis, with the favor of the Reverend Father Joachim Arcoverde de Albuquerque Cavalcanti, a priest of the diocese of Olinda. He was born of legitimate, Catholic, and honorable parents in the diocese of Olinda, Brazil, and having completed the forty-second year of his age, he was enrolled among the students of the Pontifical College in Latin America in Rome, and there he received the order of the priesthood and two licenses in sacred theology, and having returned to his homeland, he performed the duties of a teacher in the diocesan seminary and in public schools, and having renounced his position as canon of his cathedral, he was chosen by the innermost [chamber] of his HOLINESS.

The TITULAR EPISCOPAL CHURCH OF AZOTEN, which was vacant under the Archbishop of Caesarea, through the death of the Reverend Father Francis Bernert, the last bishop of that see, who died outside the Roman curia, with the favor of the Reverend Father Augustine Gockel, a priest of the diocese of Paderborn; who was also appointed as an auxiliary to the Reverend Father D. Francis Drobe, the bishop of Paderborn. The Reverend Father Augustine Gockel was born of legitimate, Catholic, and honorable parents in Burana, Büren, in the diocese of Paderborn, and having completed the sixty-sixth year of his age, he served as a curate in Warburg, as a parish priest in Detmold and Warstein, and also successively performed the duties of a rural dean for thirty-seven years, and having renounced his position as canon of the cathedral of Paderborn and as an ecclesiastical advisor, he is now...

The TITULAR EPISCOPAL CHURCH OF DANSAREN, which was vacant under the Archbishop of Edessa, through the death of the Reverend Father Joseph Bugliari, the last bishop of that see of the Greek Rite in Calabria, who died outside the Roman curia, with the favor of the Reverend Father Bellisarius Santistevan, a priest of the parish of S. Croce de la Sierra. He was also appointed as a coadjutor.

[*Latin ed. p. 16*]

16 FROM THE CONSISTORY ACTS concerning the future succession of the Reverend Father John Joseph Baldivia, Bishop of the Holy Cross of the Sierra. The Reverend Bellissarius Santisteban, born of legitimate, Catholic, and honorable parents in the city of San Donato di Ninea, and having surpassed his forty-seventh year, having recently received the degree of Licentiate in sacred theology, is constituted Secretary of the Chamber and of Government of the present Bishop of San Donato di Ninea.

THE CATHEDRAL CHURCH OF GRAN is vacant, due to the death of the Most Reverend Alexander Bonnaz, the last Bishop thereof, who died outside the Roman Curia, by the favor of the Reverend Alexander Dessewffy of Csernek and Tarkeo, a presbyter of the archdiocese of Gran, at the nomination of Francis Joseph, Emperor of Austria. The Reverend

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Alexander Dessewffy of Csernek and Tarkeo, born of legitimate, Catholic, and honorable parents in Pozsony of the archdiocese of Gran, and having surpassed his fifty-sixth year, having served as a commissioner of the Episcopal School for the revision of religious and moral matters, and as Abbot of San Donato di Ninea (also known as Vértes-Keresztur), and having previously resigned as Canon and Archdeacon of Kaschau.

THE CATHEDRAL CHURCH OF ALBA REGALIS is vacant, due to the death of the Most Reverend John Pauer, the last Bishop thereof, who died outside the Roman Curia, by the favor of the Reverend Philip Steiner, a presbyter of the diocese of Iaurinen, at the nomination of Francis Joseph, Emperor of Austria. The Reverend Philip Steiner, born of legitimate, Catholic, and honorable parents in the village of Fehéregyhas of the diocese of Iaurinen, and having surpassed his fifty-first year, having recently received the doctoral degree in sacred theology, was co-opted among the Domestic Prelates of His Holiness, and has resigned from his position as Canon Theologus of the Church of Magno-Varadin.

THE EPISCOPAL TITULAR CHURCH OF HEPHAESTEN is vacant, under the Archiepiscopal jurisdiction of Pelusium, due to the succession of the Reverend Father Vincent Flood to the metropolitan See of Portus Hispaniae, by the favor of the Reverend Julian Kujlowski, a presbyter of the diocese of Premisli, of the Greek Rite; who also served as an auxiliary to the Reverend Father John Stupnicki, Bishop of Premisli of the Greek Rite. The Reverend Julian Kujlowski, born of legitimate, Catholic, and honorable parents in Koniuszki Krolewskie of the diocese of Premisli, of the Greek Rite.

[*Latin ed. p. 17*]

FROM THE CONSISTORY ACTS: On the seventeenth day, having completed his seventy-fourth year, he departed this life after having previously held the degree of Master in Sacred Theology, having been Dean, Canon of the Chapter, and Prefect of the Greek Rite Premisliensis Chapter, from which offices he had already resigned. The Archpriest of Stanislaopolis was elected, and was admitted to the honors of the Sacred Palace. The titular archiepiscopal church of Selymbrien is vacant, due to the death of the Most Reverend Vartani Estegar, the last of that Archbishop to have died outside the Roman Curia, by the favor of the Most Reverend Edward Anger, titular Bishop of Alalis. The metropolitan church of St. Salvator in Brasilia is vacant, due to the resignation and subsequent translation to the titular archiepiscopal church of Chalcidensis, of the Most Reverend Aloysius Antonii dos Santos, by the favor of the Most Reverend Antoniide Macedo Costa, Bishop of Belem of Para. The metropolitan church of Salzburg is vacant, due to the death of the Most Reverend Franciscus de Paula Alberti Eder, the last of that Archbishop to have died outside the Roman Curia, by the favor of the Most Reverend Johannes Haller, titular Bishop of Andren-

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sis. The Reverend Fathers of the Chapter and Canons of Salzburg elected, or proposed, a candidate for Archbishop. The cathedral church of Serena, in the jurisdiction of Chile in South America, is vacant, due to the resignation of the Reverend Joseph Emmanuele Orregoliberace, which was carried out freely by his own hand and admitted by the Holy See, by the favor of the Reverend Florentius Edward Fontecilla, a priest of St. James of Chile. He, born of legitimate, Catholic, and noble parents in the city of St. James of Chile, having completed his thirty-sixth year, having been a chaplain in the Castrense military establishment in Antofagasta, and having performed the office of Apostolic Vicar, was appointed Canon of the metropolitan church of St. James of Chile, in place of the aforementioned. The titular archiepiscopal church of Chalcidensis is vacant, due to the death of the Most Reverend Severi Garcia, the last of that Archbishop to have died outside the Roman Curia, by the favor of the Most Reverend Aloysius Antonii dos Santos, Archbishop of the missionary See of St. Salvator in Brasilia. The cathedral church of the Most Holy Conception of Chile in South America is vacant, due to the death of the Most Reverend Ferdinand Blaitt, the last of that Bishop to have died outside the Roman Curia, by the favor of the Reverend Placidus Labarca, a priest of St. James of Chile.

[*Latin ed. p. 18*]

18 FROM THE CONSISTORY ACTS: Having been born in Chile and having surpassed his fifty-first year, he, who had sometimes administered the care of souls to parishes, having fulfilled the office of Apostolic Vicar until now. The CATHEDRAL CHURCH of Segovia is vacant, due to the death of the Most Reverend Anthony Garcia and Fernandez, the last of that diocese to have died outside the Roman curia, by the favor of the Most Reverend Joseph Pozuelo and Herrero, Bishop of the Canarias, for presentation to the Most Serene Queen Catholica Regent. The CATHEDRAL CHURCH of Avila is vacant, due to the translation to the See of Vitoria of the Reverend Father Raymond Fernandez Pierola and Lopez de Luzuriaca, by the favor of the Reverend Father John Muñoz and Herrera, a priest of Antequera, for presentation to the Most Serene Queen Catholica Regent. The Reverend Father John Muñoz and Herrera, born of legitimate, Catholic, and honorable parents in Antequera, and having reached his fifty-fifth year, having been conferred the doctorate in sacred theology, and the license in canon law, having sometimes served as a parish priest, was chosen as Rector of the Central Seminary of Granada. Among the prelates attached to the house of the SUPREME PONTIFF, he was appointed and has been announced as a Canon of the Metropolitan Church of Granada. The CATHEDRAL CHURCH of Minorca is vacant, due to the death of the Most Reverend Emmanuel Mercader and Arroyo, the last of that diocese to have died outside the Roman curia, by the favor of the Reverend Father John Comes and Vidal, a priest of the diocese of Vich, for presentation to

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the Most Serene Queen Catholica Regent. The Reverend Father John Comes and Vidal, born of legitimate, Catholic, and honorable parents in Manresa, of the diocese of Vich, and having surpassed his forty-sixth year, having been conferred the license in the faculty of theology, and the doctorate in both law, having fulfilled the duties of Spiritual Vicar General, Visitor, and Synodical Examiner, and formerly as a synodal official, in Corduba and Tarragona, he has been honored until now with the dignity of Metropolitan Archpriest of Tarragona. To these, he added other churches through letters in the form of a Brief, recently provided: He renounced the titular see of DIOCLETIANOPOLIS to the Venerable Brother Abbot, who bade farewell to the Cathedral of Chios (Scio).

[*Latin ed. p. 19*]

FROM THE ACTS OF THE CONSISTORY: To the seat of Chios, the Venerable Brother Dionysius Nicolosi, Bishop of Zacynthus and Cephallonia, was transferred. With the Episcopal title of Azotus, he was appointed Auxiliary Bishop to the Archbishop of Paderborn. The esteemed Alius Augustine Gockel, formerly a canon in the Cathedral, was appointed with the titular Episcopal see. The esteemed son Hubert Otto, from the Congregation of the Immaculate Heart of the Virgin Mary in Belgium, whom he chose as his Vicar in Kansu, was appointed. The esteemed Martin Poell, from the Minor Observant Recollects of the Netherlands, was appointed his Vicar in Southern Kensi, having been erected by himself, and was assigned the titular see of Cybistra. The titular Bishop of Hirinen was appointed to the esteemed son Charles James MacDonald, and he was also appointed perpetual Coadjutor to the Archbishop of Carolinopolis. The esteemed son Eugene Kleiner, from the Parisian Seminary for Foreign Missions, was appointed perpetual Coadjutor Bishop of Mysuria in Eastern India, and was assigned the Episcopal title of the Church of Lyrbens. The esteemed son Constantine Costa, from the Congregation of the Passion of Our Lord Jesus Christ, was decorated with the titular Episcopal title of Antipatri and appointed Auxiliary Bishop to the present Archbishop of Bucharest.

[*Latin ed. p. 20*]

20. FROM THE HOLY CONGREGATION OF THE COUNCIL OF SQUILLACE. Document dated January 25, 1890. Summary of the preceding. COMPENDIUM OF THE FACTS. By testamentary codicil dated May 16, 1877, the Baroness Aloysia Scoppa instituted her nephew, the Marquis Aloysius Di Francia, as her universal heir, and also prescribed several secular and sacred bequests, among which was one that gave rise to a long and bitter controversy, and which provided the cause for the particular petition concerning which we are speaking, the tenor of which is as follows: "I order my heir, Aloysius Di Francia, to provide perpetually clothing and sustenance for the poor of the two municipalities of Santa

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Catherine above Ionium and Guarda Valle." To fulfill this bequest, the heir, from the beginning, acted in the same manner as the pious testatrix had been accustomed to do while she was alive. However, the Congregations of Charity of the two municipalities, believing that such a bequest was within their jurisdiction, brought the heir before the court, demanding that he assign a sum of money sufficient to satisfy the obligations. The dispute was carried through all the civil courts, with varying results: but in the end, the Marquis prevailed; for the court of appeal of Naples, to which the case had been again entrusted by the Supreme Court of Cassation, on January 17, 1887, rejected the petition of the municipalities. However, since the municipalities had, up to that point, been unable to obtain what they clearly and legally sought, they then attempted to achieve it through other means; for they petitioned the Supreme Council of the State in the administrative sphere, requesting that the disputed bequest be declared a moral obligation; and they obtained this through a decree dated March 24, 1887. This decision, being detrimental to the heir's rights, could certainly not please the Marquis; and therefore, a new avenue of controversy was opened.

[*Latin ed. p. 21*]

SQUILLACEN. 21 appeared to be open; and indeed, the municipalities were once again threatening to initiate a lawsuit unless the Marquis agreed to a certain settlement. Furthermore, the Marquis, who is the plaintiff in this case, states that already 15,000 livres have been spent in legal proceedings, without any hope of recovery, because the charitable congregations receive free legal assistance; therefore, given the current situation, he: 1. requested permission to enter into a settlement with the charitable societies, transferring the principal, the income of which should be spent on charitable works for the poor of the two municipalities. 2. Requested, through such a transfer, to be relieved of any burden, of an indefinite nature, imposed by the pious testatrix. 3. Requested, for the peace of his conscience, a remedy for any omissions.

Synoptic Discussion: Regarding the first request, namely, regarding the permission to negotiate with the municipalities and to grant them a suitable sum for the fulfillment of the legacy, nothing seems to be objectionable. Indeed, the heir appears to have full power to do so, for the testatrix ordered that her heir should provide food and clothing to the poor of the two places, without specifying the manner and method of distribution; it seems that the heir is free to fulfill this obligation either by himself or through another, by a specially established arrangement, or indiscriminately from the entirety of his inheritance. It cannot be said that this task cannot be entrusted to the two municipalities and their charitable congregations, for since the testatrix has not ordered anything regarding the manner of fulfilling the obligations, and has not forbidden anything, it seems to be within

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the heir's discretion to delegate anyone he deems most suitable, and to entrust them with whatever he wishes. Furthermore, such an agreement is morally necessary, given the presumptions and rivalries of the two municipalities. Indeed, it is also useful, for if the Marquis does not negotiate and agree with the municipalities, lawsuits will be initiated, and expenses will increase; which will certainly be detrimental to the pious work and will result in a decrease in the funds. But, moreover, the utility also...

[*Latin ed. p. 22*]

22. SQUILLACEN. Hoc etiam potest derivari ex alia clausula. Nam, in genere loquendi, maior cautela et prudentia consistit in hoc, ut, ad perfectum et perpetuum adimplemntum obligationum, se distinguat sortem ab iuribus hereditariis familiae, et ab incertis circumstantiis familiaribus, et administrationem eius assignet ad personam moralem; quam confidere in honestate et fortuna semper incerta, licet et in familia praesenti divitis et religiosissimae. Quoad alteram partem petitionis, nempe quoad liberationem familiae ab ulteriore obligatione, cum sortem in adimplemntum obligationum iam duabus civitatibus consignaverit, observari potest, in primis, quod pia testatrix nihil certi de quantitate legati determinavit; et, praeterea, in proposito desunt elementa ex quibus iustum iudicium in hoc puncto formari possit; nam ad hoc finem, oportet cognoscere quae essent omnes vires totius hereditatis, quae legata et onera, quot in duabus locis pauperes, et quinam tales aestimandi, et, tandem, qualis in hac re fuerunt mores defunctae baronissae. Sed haec omnia nobis obscura sunt, unde, absolute loquendo, nihil certi concludi posset. Attamen, cum duae Congregationes charitatis non sint tardae in petendo et praesumendo, et cum alius orator piae religiosaeque conscientiae videatur, satis tuto credi potest paucorum causam non fraudari. Ideo, retinendo quod in conventione cum civitatibus totum id a Marcinone praestetur quod pauperibus debitum est, iuste merito concludere oportet hunc marchionem ab ulteriore obligatione liberari. Idem, plus minusve, dicendum est quoad tertium postulatum; quod magis ad plenam tranquillitatem conscientiae in vaga obligatione, quam ad dispensationem pro oneribus non adimplemntis, videtur pertinere. Quibus animadversis, quaesitum est quid responderendum esset ad petitiones. RESOLUTIO. Sacra Congregatio Concilii, re cognita sub die 25 Ianuarii 1890, respondit: Praevia absolutione quoad praeteritum, si opus sit, quae tamen non suffragetur Confraternitatibus charitatis, pro gratia, facto verbo cum SSmo.

[*Latin ed. p. 24*]

24. In Naples, she was compelled to marry a grown man named Peter Ingovitz. Amidst weeping and convulsions, witnessed by the Parish Priest, and family members, this marriage was celebrated. Immediately after the

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marriage, still experiencing convulsions, she was taken home by servants and afflicted with a certain illness for fifteen days, during which time she was frequently ill for two years; for this reason, she traveled through various cities in Italy, accompanied by a servant assigned by the godfather. Finally, she arrived in Naples, where she was kindly received by her uncle. When Peter Ingovitz learned that his bride was living in Naples, he immediately went to that city and, in the presence of the Austrian consul, brought his bride before him, and they mutually requested that he pronounce a permanent separation of marriage between them, retaining with Peter Ingovitz the administration of the bride Adelia's property. Ingovitz, having already obtained a strong opinion from the consul, gave his bride a few hundred livres for a year, and then nothing more, because he had dissipated all the property. Adelia lived a miserable life in poverty. One day, she found a kind, elderly priest, filled with charity, and, by divine providence, she recounted to him the vicissitudes of her life, and the reason why she was forced by her guardian into this marriage. The priest taught her about the nullity of this marriage, and urged her to go to the Holy See, offering himself as an intermediary. The Supreme Pontiff received the petition and ordered that the case be heard in this Congregation. The Sacred Congregation ordered the Neapolitan Curia to conduct only an informative process, reserving to itself the power to order an examination of the matter. The process, according to the procedures established by Pope Benedict XIV, was carried out with the utmost care. A Synopsis of the Discussion: OPINION OF A CANONIST. The consultant observed that the marriage in question is null, due to the lack of consent.

[*Latin ed. p. 25*]

NEAPOLITANA 25: For marriage without consent, and consent without liberty, are two moral absurdities. Nothing is more clearly established in law than that free consent is required in marriages; if consent is lacking, the marriage contract is necessarily null. From chapter 25 of *Tuae Fraternitati* concerning betrothals and marriages: For, so to speak, the essential substance of marriage is mutual consent, which is also called a contract, and which, by Christ the Lord, has been elevated to a sacrament. Alexander III says in chapter 14 *De Sponsis*: "Marriage is contracted solely by consent, and when this is questioned, it must enjoy full security, and the intentions of the parties must be investigated." Pontius, explaining this doctrine of the Church, says: "A greater and more perfect will is required for the contract of marriage than for other civil contracts. Indeed, since other contracts are of lesser importance and are dissolvable by human authority, or by the consent of the contracting parties, it is not surprising that they are entered into with a mixed will." *De Matrimonio*, I, V, chapter 14, paragraph 16. Consent for marriage presupposes 1. Some inclination towards marriage. This inclination is manifested in women by an external tendency to con-

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verse with men. In the case of Adelia, this tendency was never observed until *ad decimum* year of her age. Having been raised with the strictest discipline, she showed no sign of it. 2. Not only does consent presuppose a general inclination, as a remote cause, but also a special inclination towards a particular individual, attracted by that individual's *forma*, age, and condition. Let us suppose that Adelia desired to marry. Which man did her guardian present to her? A man forty years of age! A young woman turns to a young man, or to a youth. A young woman loves a young man; she dislikes an older man. For love, which is the beginning of marriage, and its reason, soul, and complement, arises, grows, and lives among equals. Adelia refused to accept Peter as her husband, who was twenty-six years older than her. "When Ingovitz," Adelia testified under oath, "asked to visit our home, I began to feel a great aversion towards him, although I had not previously..."

[*Latin ed. p. 26*]

26. In Naples, she would spend days sending flowers and trinkets. I recall that on one occasion, when he came to visit, I hid under the bed. This is what the witnesses unanimously testified; indeed, the groom himself testified that, neither before nor after the marriage, Adelia had ever shown him any sign of affection, but rather, quite the opposite. But how was the marriage contracted? From the day of her presentation until the day of the marriage ceremony, only one month passed; therefore, it could not have arisen from a long courtship, which Adelia always avoided. The marriage was begun out of grave fear, unjustly instilled; and it seems to me to have been the result of a violent coercion of the will. Although open force or great terror are not always required to destroy the freedom of consent, but rather machinations are sufficient, as can be deduced from the decision of this Holy Congregation in the case of *Parisien*, June 25, 1864, or through violent prayers and persuasions; to which is added *Conscius De Separ*, title L, chapter 55, number 21. However, the consulter intended to prove that Adelia was compelled to enter into marriage with Peter through great fear and violent coercion of the will. Evil does not always have to be considered in itself, that is, objectively, but rather in relation to the person experiencing it. Because when it is a privation of a good, which one person desires as a great good, and another as a small good; therefore, what is a great evil for one person, may be a minor evil for another. What is considered a great evil for all is the privation of freedom of action. A jest is considered a minor evil by the common people, but a great evil by aristocrats; but the penalty of imprisonment is feared as a great evil by both nobles and commoners. The privation of freedom for a child, for a young girl, consists in confinement, even if everything desirable is found within it. A fourteen-year-old girl is led by the impression of fantasy, which is more vivid in that age than in later years. Girls are more timid than boys due to their weaker constitu-

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tion. Now, Moderatus, Adelia's father, in his will, stipulated: "Because it is possible that one of my daughters, forgetting my ultimate vow, might enter into a grave and difficult relationship with a certain person," – about whom he spoke in the immediately preceding article, and he...

[*Latin ed. p. 27*]

NAPLES. On the 27th, she conceived of a mother and guardian for her stepchildren; in this case, and with the consent of the guardian, the girl was confined to a convent, where she would be provided with everything, and where she would remain until a more mature age. Therefore, since she had refused to marry Peter, resisting the will of her guardian, she was to be condemned to seven years of confinement, deprived of the exercise of her liberty. And the guardian, according to the unanimous testimony of witnesses, was exceedingly proud, irascible, and headstrong, and capable of carrying out testamentary mandates with great rigor. However, a description of the convent in the city of Alexandria, made by the guardian's advisor, greatly inflamed Adelia's imagination, and increased her fear. How could the girl's imagination not be inflamed! The girl, due to her age, was credulous, timid, and averse to confinement, aware of the harsh disposition of her guardian and abandoned to her power, could she not fear? As many canonists after Septem Thr. con. cap. XVI, n. 54 state: "It is proven by witnesses, on the part of the woman, that she was afraid, if they testify about her tears and complaints, both those preceding and those accompanying the celebration itself, and about the subsequent sadness and pallor." The same is taught by the Rota, 205, citing Menochius, who in his *Practica* lib. 3, praes. 4, n. 44, states: "These signs, if they cannot be attributed to any other cause than sighs, tears, and sadness, signify fear." Both the bride and the witnesses testify that these signs were present before the marriage, during the act itself, and after the marriage; indeed, signs were present that most probably indicate that the words spoken were far from being a true consent. For, as Bossius states in cap. XII, § 22, n. 344, "Fear is difficult to prove, because it is hidden and occurs within the domestic walls; therefore, not only are relatives and domestics admitted as witnesses, but greater credence is given to them." The same was defined by the Rota, in decisions 147, n. 4 and 10. The same is stated by Aretinus (consul. 13). The same is stated by many canonists. One evening, she said, Peter was invited to dinner at our home by my guardian, and I was filled with intense sorrow, and I said to the same guardian, "I will never marry Peter Ingovitz," but she persecuted me, threatening me with harm. Regarding this...

[*Latin ed. p. 28*]

28 The fierce convulsions in Naples afflicted me severely, culminating in a great weeping. On another occasion, I was forced by my stepmother to request a small chapel, in which I found Ingovitz with others. I recall

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only that I wept incessantly, and that kneeling before the altar, where the priest was speaking of the burdens of marriage, I lost consciousness, losing both hearing and sight, unaware of what else occurred. When I regained my senses, I saw myself dressed in a wedding gown, before my stepmother and my sister. In this situation, can anyone assert that Adelina gave a true and free consent, if she was not of sound mind? Surrounded by the priest, witnesses, and my stepmother, who, as her advisors, had prepared this marriage and were forcing the girl to consent, how could she possibly dissolve the situation, flee, or object? Or perhaps she did not give her consent, and the parish priest, through some deception, mistook the voice of the malicious stepmother for the voice of Adelina, or, I will say with a smile, the priest, disregarding the previously dreamt-of consent, took it as present! And yet, Alexander III commands this, in C., section 14, concerning betrothals: "The mind must be investigated, lest, through fear, it say that it pleases what it hates, and follow the consequences that usually occur from forced marriages." The Pope declared the law of nature. But let us hear Peter, who, far from Naples, at a great distance from the Lebacense court, under oath, testified, the words of whose deposition were translated into Latin by that very court, as follows: "Around the month of September in the year 1869, I saw this person, namely Adelina, for the first time; I often visited the house where the betrothal was taking place, which greatly affected my heart; at the same time, I noticed that she was not well-educated, and that she showed aversion towards me. Through the help and intercession of Mr. Levi and the patron of the cause, Mr. Dominic Gatteschi, the proceedings were promoted and brought to the betrothal," that is, when the stepmother said to Adelina: "Adelina, this will be your fiancé," but she, in contempt, gave no reply. The stepmother did not favor her and treated her badly... it was easily understood that the stepmother desired that she be freed in any way. On the day...

[*Latin ed. p. 29*]

In Naples, a young woman, namely a bride, appeared to be in a very disturbed state. After the consummation of the marriage, she became mentally unstable, and while the priest was speaking to her after the act, she suffered a fit of madness. She remained in this state of madness for several hours, and was visited by a doctor in the following days. "I have never consummated my marriage with my husband. He has always been the same, and his behavior towards me has always been the same." The absolute aversion of the young woman to marriage is attested to by Angelus de Petris, Maria de Dominicis, the wife of the Lord Schiapparella, Carolus de Petris, and Luisa Sorrentino. Therefore, if it is required for a marriage to be valid that there be free consent, and if this consent is lacking, the marriage is not valid, as stated in chapter 25 of the regulations concerning betrothals and marriages: "If, according to the definition of the Sacred Congregation in

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Paris, June 25, 1864, open force and great fear are not required to invalidate the consent; and if, according to the teaching of the Council of Trent, in Canons on Matrimony, Session XIII, chapter 13, canon 9, 'a greater fear is required to invalidate a marriage, which signifies the union of Christ with the Church, which is founded on free and voluntary love, and not on coercion, than in other contracts, because of the greatest freedom of the will,' what is to be said of a marriage that was entered into with open force and great coercion? But let us suppose there is doubt about the severity of the girl's fear, so that one may doubt whether the deprivation of freedom that is certainly threatened to a fourteen-year-old girl is a grave evil, and whether this will certainly lead to the desired outcome. What is to be concluded? One must stand on the side of the severity of the fear. Bossius states: 'Although in a doubt concerning marriage, one should judge in favor of the marriage, nevertheless, this is not the case when fear is present; so that in a doubt whether a marriage is entered into freely or under fear, whether under grave or slight fear, it is to be judged under fear, or under grave fear, rather than freely, or under slight fear, and therefore it is not valid.'" Bossius, De Matr. contr., chapter XIII, paragraph 10, number 146, Franciscus Molines, Book 2, on the Nuptial Rite.

[*Latin ed. p. 30*]

30 Neapolitan Disputationes, 17, number 61 and 81. The Roman Rota likewise defined this, in decision 19, number 16, as cited by Farinaccius in *Liber I, consilia*, and others. In this case, I find no doubt, because it clearly appears that the coercion was carried out through fear. The consulter, pursuing his theme, states: "This marriage was not ratified, and the examination of the body is futile." And therefore, in this paragraph, I will briefly submit to the judgment of Your Eminences that the marriage in question was not ratified, and I will proceed from hypothesis to hypothesis, contrary to my usual practice, in order to clearly demonstrate the freedom of Adelia to enter into other vows. The first hypothesis is that the carnal union of Adelia with Peter Ingovitz validated the marriage through tacit consent. However, I will first demonstrate that they did not have carnal intercourse, and then, even if we assume that they did have carnal intercourse, it did not validate the marriage. Conscius, *Liber 1 de separ.* (hor. coniug. cap. XVI: "When it is established," he says, "that the spouses never lived together, that is, in the same room, then the assertion of those same spouses regarding the lack of consummation must be given every possible credence.") This same principle is held by Hostiensis, *In summa lit. de convers. coniug.*, number 9. Baldus, in *Leges Deo nobis*, 42, number 9, and others. But both assert, under oath, that they never had carnal intercourse. Both, before the Austrian consulter, affirmed the impossibility of living together, because their temperaments are opposed to each other. And the same witnesses testify. But let us suppose that they did have carnal inter-

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course; could this have validated the marriage? Two things are required to secretly validate a marriage: knowledge of the nullity of the marriage and a spontaneous union entered into with marital affection. Schmalzgrueber, volume 4, part 1, title 4, § 421; Sánchez, *De matrim.*, book 4, discussion 18. In the case of a young woman who lived in a state of apparent marriage until her nineteenth year, and who was subsequently repudiated by Peter Ingovitz before the Austrian consulter, one cannot even suspect that she possessed knowledge of the impediments that would invalidate the marriage. She was surrounded by people who had an interest in her believing that the marriage she had entered into was valid.

[*Latin ed. p. 31*]

In Naples, the same individual, who was also forty-five years old, when he abandoned Adelia, was unaware of the invalidity of the marriage: how can it be supposed that Adelia possessed this knowledge? Regarding the consummation of the marriage, was it consummated with marital affection? Certainly not. If Adelia herself, as she and the witnesses affirmed, had such strong aversion to conversing with Peter, and if this aversion persisted for so long, and she refused to listen to the advice and exhortations of friends and relatives, could the marriage have been consummated with marital affection? It seems to me that a contradiction must be recognized in this hypothesis. Finally, even if we suppose that Adelia was aware of the nullity of her marriage, and we also suppose that the marriage was consummated with marital affection, was the marriage validated? Certainly not. A marriage can be validated secretly, when the impediment removing it is secret. But when the impediment is public, it cannot be validated secretly. Benedict XIV, *Institutes*, 87, n. 62-63, distinguishing between hidden and public impediments, writes: "If a marriage is begun publicly, before a priest and two witnesses, and the impediment is also publicly known, the same marriage cannot be validly confirmed, unless consent is again given before the priest and two witnesses." On several occasions, this Sacred Congregation has ruled, and the Rota has decided in cases of public impediments, that a marriage cannot be restored unless it is celebrated again before the Church. Barbosa, in *Annotations to the Decrees*, L, 2, vote 17, n. 178, regarding this matter, says: "Because all the form and solemnity that must be present in the act, in order that it may be valid, must also be present in the ratification of it; nor can the solemnity that preceded be dispensed with, because it must concur at the time of the act, nor can it be separated from it." The people know that a marriage is validly entered into by free consent before the Church, and they believe that it cannot be dissolved without the judgment of the Church itself. They abhor forced marriages, because in them they perceive a substantial impediment, namely, the lack of consent. They believe that those who have entered into a forced marriage remain married until the Church declares that such a marriage was null.

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Something is said to be public when it is known to the general public, or when it is so that anyone can easily discover it.

[*Latin ed. p. 32*]

32. In NEAPOLITANA, there were six or more people present, or, according to others, more than ten. Hence, the secret that was known to no more than four or five people, and according to others, no more than seven, at most ten people. But I will follow the second opinion, which can scarcely be called probable. In this case, we have the young woman, Adelia, four witnesses, the coachman Salem, Angelus de Petris, and Adelia's brother, the sacristan who attended the priest, and the seventh witness, who asserts that their conscience is clear regarding the coercion. Indeed, there was a public impediment, because they saw the young woman walking between the arms of the coachman Salem and another girl in a state of convulsion, and they heard the certain cause of the convulsion, and they also supposed that there was no one present in the church who was a faithful follower of Christ at the celebration of the marriage. Therefore, there was a public impediment; let us add the testimony of the doctor and the maid, and also the easy dissemination of the fact, which was of such importance. Not only according to the teaching of many canonists, especially Barbosa, cited in *op. de offic. et potest. Episc.*, al. 32, n. 149, and Fagnani, but also according to the decisions of the Sacred Congregation of the Council, especially that of May 17, 1880, the marriage in absentia must be ratified before the priest and two witnesses. Since this was not done, and the marriage in absentia was not null from the beginning, that is, in the very act of celebration, it still persists. The examination of the body is useless, because it is not a question of whether the impediment of impotence invalidates a marriage in absentia, but of consent. Suppose that Adelia, being a *vidua* (widow), was forced by grave fear to enter into a marriage in absentia in second nuptials, would the examination of the body be valid? Suppose also that Adelia had been defiled by another; could such defilement validate the marriage? Could it destroy all the arguments by which it is proven that the marriage was null? What can the examination in this case declare? It seems appropriate to consider what the Neapolitan Ordinary wrote in response to the question put to him by the Secretary of the Sacred Congregation of the Council, for he said: "I asked the priest about the state of Adelia's life; he replied that it was somewhat abnormal; although I was later informed by another respectable person..."

[*Latin ed. p. 33*]

In Naples, it is deemed reliable that a certain woman is virtuous, and that the account of her life is most honorable. How can such testimonies, given outside of a judicial setting, be reconciled? Can contradictory statements be held? Who speaks the truth, the parish priest, or another estimable man?

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We are men, and we are capable of deceiving and being deceived. It is more fitting to believe the testimony of those witnesses who, under oath, declare that Adelia is innocent, chaste, sincere, and religious. Or, is Adelia's life publicly immoral, as the parish priest testifies, and then no one can affirm that she is without reproach, and a prominent man lies? Or does the parish priest intend to speak of Adelia's private life, and then he ought to have warned the Archbishop of the source from which he obtained this knowledge. In these tempestuous times of ours, calumnies are multiplied. If a prominent man testified to the Archbishop, Em, of Adelia's good life, did he intend to testify about her private life? And then, why does the parish priest, by attesting to her private life, say that Adelia conducts herself badly? The Archbishop follows: "Whatever the case may be, now Adelia follows a commendable way of living, and she frequently approaches the sacramental confession." Therefore, the Consultant concluded, the marriage is not invalid due to a lack of consent; it has not been validated, nor does it require a secret explanation, nor an examination of Adelia's virginity before the parish priest. In the case of the marriage between Adelia De Dominicis and Peter Ingovitz, the knowledge of the facts is sufficient to declare the nullity of that marriage. For, according to the excellently conducted process in Naples, the events that precede, accompany, and follow that marriage, reveal a lack of free consent on the part of the woman, and indeed, a clear dissent of the girl is clearly apparent. The preceding events. On the part of the girl, there was a constant aversion, or antipathy, and a natural repugnance, given that she was fourteen years old, while the man was almost forty years old. On the part of the woman, there was a constant theological vow against this marriage. Acts, Volume XXIII, page CCLXV, 3.

[*Latin ed. p. 34*]

34. In NEAPOLITANA, the will to proceed with the marriage, and consequently, the moral violence and unjust fear inflicted upon the girl, who, after the death of her father, is entirely under the power of her imperious stepmother. To the simple girl, who has scarcely any idea of marriage, this marriage is proposed, or rather, imposed. She is either forced to marry a man, certainly of an age, nation, character, and appearance entirely dissimilar to her, whom she cannot possibly love; or, if the stepmother is displeased, she is confined to another institution for the education of girls, which is described as being like a prison. Oh, that unhappy girl had chosen a purely imaginary prison, in which she would have found freedom, which she certainly lacked at home! Constantly, the girl demonstrates her aversion to this marriage through words, tears, and actions, both to the stepmother, to the groom himself, and to many others, but in vain. Therefore, up to the day of the wedding, there is no free consent; indeed, there is a clear and positive dissent. All of this is proven through the testimonies of the girl herself, and of numerous witnesses. Furthermore, the marriage

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ceremony is accompanied by the same internal resistance, indeed, it even increases. On the very day, or rather, night of the wedding, amidst tears, she is dressed in bridal garments, she weeps for hours, and finally, by the stepmother, she is taken to a private chapel within the Vicariate Apostolic, where the groom and witnesses await the bride. During this ceremony, her mental and physical strength fails, and she faints. She is carried from the altar to the groom's house, and then to the bed, still unconscious, where, deprived of her senses, she lies in her bridal gown for several hours, and then, for several days, she is ill with fever and convulsions. Perhaps, before fainting during the wedding ceremony, she expressed, if not in words, at least through some sign, her unwillingness; but how much more eloquent are the signs of dissent! Certainly, in such a state of mental turmoil, which accompanies the entire ceremony, neither actual nor implied consent is apparent, but rather, actual and implied dissent. To this accompaniment, one can also refer to those things which, as a complement, immediately followed that sorrowful wedding ceremony; that is, those things which occurred in the course of the proceedings.

[*Latin ed. p. 35*]

NEAPOLITANA 35: Concerning the loss of the nuptial ring after two weeks, and the first meeting of the bridegroom and the ailing bride in the same house; for the bride, after fifteen days, did not remember the bridegroom, who, having been summoned by the stepmother, went to Adelia, and was received by her, certainly without fear, but with a sense of pity; for she was afraid and apprehensive of the man, as Adelia herself stated. Subsequent events. Did the girl, at least, after that unhappy night when the marriage was celebrated, yield, as it is commonly said, to necessity, and in some way give her consent? By no means! And this, indeed, may seem surprising, especially since she believed, although unwillingly, that she had already been bound by an indissoluble bond before the Church, and that the man had striven to attract her to him with all the offices of kindness, present and absent, for more than two years. He, on the other hand, had hoped that, once the marriage had been begun before the Church, gradually, as she grew older and more mature, all that repugnance the girl felt towards the marriage would cease, a repugnance which was largely due to childish obstinacy and temporary stubbornness: hence the girl was often called stubborn by the stepmother and the bridegroom. But she, in accordance with the course of events and her aversion, remained stubborn, from the beginning until the legal separation, which occurred after two or almost three years; this, in fact, began sooner, namely, after the first three months. Therefore, the antecedents, the accompanying circumstances, and the consequences clearly demonstrate the nullity of this marriage, either due to lack of consent, or rather, due to a constantly persistent dissent. This marriage would have remained manifestly null, even if it had been

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consummated, due to the lack of consent. But since in the aforementioned trial, the Oratrix requests that the marriage bond be declared null either by law, due to lack of consent, or, if there should be any doubt, that it be dissolved by grace, a few things must be said on this point as well. From the trial, it is also evident that, even after the marriage, Adelia lived a life more of her own than that of a wife. The man, especially because of the girl's known aversion to him,

[*Latin ed. p. 36*]

36 In Naples, but also because of her tender age, her childish manners and ingenuous simplicity, her weak health, he treated her with affection, like a girl, and from the very beginning of their married life until their separation, he entrusted her to a female servant, who rather lived with her as a companion than as a servant, both at home and abroad, both day and night, treating her as if she were a girl, amicably. He never saw her in the marital bed; she had her own chamber at night, separate from her husband, and during the marital journey itself, she slept in a separate chamber from her husband with a servant. After three months of marriage, the marital journey completed, he left her in Venice with the servant, and, being separated from her husband for a long time, she never saw him again. He resided in Alexandria in Egypt, unless perhaps he was sometimes forced to travel elsewhere for his business; she, on the other hand, using and spending the money that her husband generously and lovingly sent her, stayed first in Venice, then in several other cities, especially in Switzerland and Germany, and finally in Naples, among her own people: always separated from her husband in body and spirit, until he came to Naples with the hope of beginning a conjugal life with her, when she was more mature and had reached her seventeenth year. However, he did not dare to propose the marital duty to her directly, but only indirectly, through a female relative in whose house she resided: but in vain. Whether Adelia, who considered herself bound by the marriage bond, could legally refuse her consent, I do not inquire; I only focus on the fact: she was horrified by any intimacy with such a man. He, indignant, threatened legal separation, attributing all the blame, disgrace, and damages to her: she accepted all present and future damages, disgrace, and blame upon herself, and signed everything that he wanted, even concerning the dowry; finally, she was legally separated from her husband for the third time, but remained chaste. But it is now superfluous to prove this from the proceedings, since it is entirely clear from the sworn testimonies of Doctors, which are included in the supplement to the proceedings, that she was found to be intact after a physical examination. However, some difficulty arises in such a manifest matter.

[*Latin ed. p. 37*]

In Naples, there exists a petition, signed by both spouses, which was

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presented to the Austro-Hungarian Consul, requesting a separation from the marriage bed and table, and from cohabitation, in Alexandria. The wife declared that she had had no carnal intercourse with her husband in the last six months, and therefore was not pregnant. Do not these words imply that she had been known to the husband for at least six months prior? This may have been the reason why the request for a physical examination was denied, although the petitioner earnestly requested it out of modesty. The examination itself has already provided an answer to this difficulty; but furthermore, I respond, as the wife herself stated in the proceedings: those words were legally necessary, and in that legal document, only what was required by civil law for the purpose of separation was stated, namely, that a woman conscious of pregnancy should not be separated. It is also possible that the husband was reluctant to say everything that was necessary before the Consul, which he subsequently testified to under oath in the ecclesiastical court, and which, translated from the German language, reads as follows in the Neapolitan proceedings: "I have never consummated the marriage with my wife. The cause, on the part of the husband, is his aversion towards me; on my part, it is the violation of my honor. Before the world, however, we have acted and behaved as if we were living together in harmony." Another difficulty, which may rather be called a negative point, is that in that petition for separation, nothing is said about the wife being forced or about the lack of consent; but, tacitly assuming the validity of the marriage, it is stated only that the spouses are separating from each other due to a difference of character, which appeared immediately after the marriage contract, and which immediately indicated the impossibility of living together. The answer to this is clear: the spouses, through that ceremony, although the girl was unwilling, performed in the church, believed that they had entered into an unbreakable bond; hence, they thought only of separation, and of the reasons which they knew would have force before civil law. Oh, that they had known earlier.

[*Latin ed. p. 38*]

38 In Naples, it was reported that certain individuals were informed by a priest that, according to Church law, a marriage could not be declared null due to a lack of consent, or even that, by grace, it could be considered valid but not consummated, and therefore dissolved. Given these circumstances, esteemed Fathers, in my judgment, the nullity of this marriage can be absolutely declared by law, due to a lack of consent, unless, for caution's sake, it is deemed by grace to be a marriage that was valid but not consummated, and therefore dissolved.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE. The defender argues that the marriage, which Adelia de Dominicis, aged fifteen, contracted on April 28, 1870, with Petro Ingovitz, aged forty, is null and void, claiming that Adelia, being an orphan, consented to the marriage

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out of fear, induced by threats; furthermore, he claims that the marriage was imperfectly consummated, because, although she remained with her husband for two years, she never granted him conjugal relations. These are the claims made by Adelia; however, they are far from demonstrating the truth in a legal sense. Regarding the claim of fear, two things were necessarily required. Firstly, it had to be demonstrated that the threats, or other actions, to which Adelia claims to have been subjected, were of a nature that legally constituted a serious fear. Secondly, it had to be irrefutably proven that Adelia actually experienced these things. However, what is presented in the records does not fulfill either of these requirements. Regarding the consummation of the marriage, Adelia presents extrajudicial testimony from the doctors Trimbali and Rocco, who, at the judge's command, examined Adelia's body, and from Theresiae Stagliano, who served as an honest matron and midwife. These three individuals testified that Adelia was in a state of integrity. Thus, these are the flimsy things upon which Adelia relies! Furthermore, the claims that Adelia now makes, whether regarding fear or the lack of consummation of the marriage, are completely at odds with what the same person, a simple and innocent girl, stated with her own mouth and confirmed with her own hand before a secular magistrate. Indeed, when Adelia sought to separate from her husband, she stated;

[*Latin ed. p. 39*]

NEAPOLITANA: For thirty-nine years, a woman maintained the appearance of marriage: she claimed to have never lived with her husband, by his consent. However, it then appeared that there were even greater matters; and therefore, she immediately revealed to her husband her intention not to live with him. Such documents, as it were, reached the hands of the husband, as testified by the very Adelia, which prove that the husband could rightly be distressed by the reasons for her actions. In these circumstances, the law appeared to require a legal separation; but to avoid scandal, Adelia declared that she was the cause of all these things; and that she would accept all the consequences. Finally, she declared that she had not had carnal relations with her husband for six months. With these premises, the following questions were proposed: I. Does a nullity of marriage exist in this case? And, II. Should a dispensation be sought from a ratified but unconsummated marriage?

RESOLUTION. After deliberation by the Sacred Congregation on February 22, 1890, it was decided to respond: I. Affirmative. II. Provided for in the first.

FROM WHICH WE GATHER:

I. The essential substance of marriage is based on the mutual consent

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of the contracting parties; and therefore, when there is doubt about it, it must be investigated whether the person whose consent is doubted is fully secure and free in their mind.

II. A greater and more perfect will is required in the marriage contract than in other contracts; first, because it is elevated by Christ to the dignity of a Sacrament, and is not dissolved by the contrary will of the contracting parties; whereas, others, being of lesser importance, are dissoluble by human authority and the consent of the contracting parties by their very nature.

III. In this case, it appears to have been proven by witnesses and by the depositions of the spouses that the woman lacked the due freedom of will to enter into the marriage contract.

[*Latin ed. p. 40*]

40. In NEAPOLITANA, it is approved to say that the fear is manifested by the tears and lamentations of young women, the sorrow and paleness following the marriage, and the subsequent events.

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FROM THE HOLY CONGREGATION OF THE SACRED ROMAN AND UNIVERSAL INQUISITION. Instruction concerning clerics affected by military conscription. Rome, September 16, 1875.

The Most Holy Congregation of the Sacred Office, entrusted by His Holiness with the examination of the new and unfortunate law on recruitment, recently promulgated by the Italian Government, with regard to the advancement of clerics to the sacred orders, after having considered the matter in the assembly of the fifth day of the week, in the first place, on September 18, 1875, ..., guided by the intention of facilitating, as far as possible, through the many difficulties that oppose it, the advancement of clerics who possess the requirements desired by the Holy Canons, and to keep distant those who, having undergone military service, do not offer sufficient guarantees of a good outcome, has recognized it expedient to provide the Most Reverend Ordinaries of the Dioceses of Italy with certain cautious and prescriptive norms applicable to the various circumstances, which are all summarized in the following articles:

1. For those ecclesiastical students who have the misfortune to belong to the first category and cannot hope to be exempted; nor can they opt for a voluntary service of one year, the advancement to the sacred orders is a necessity, which should be deferred until after they have completed active service of three to five years, and with clear evidence of vocation and suitability.

2. It would not be advisable to invoke, in particular cases, as a matter of grace, the postponement of the age of twenty-six years to undergo the voluntary service of one year, or the three-year service, following the example

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of the individuals contemplated by the law in articles 7 to 9, with the intention of completing their studies and receiving the sacred orders; for even if such requests were admitted, disastrous and irreparable consequences could follow for the Church and for individuals.

[*Latin ed. p. 41*]

S. R. U. INQUISITIONIS 41. Vidui. Si, per accidens, eveniret, ut durante militia militaria vocationem amitterent et pervertantur.

3. Videtur utile praestare auxilium voluntariis pro uno anno. Ad hunc finem, Reverendissimi Episcopi in propriis diocesibus curabunt ut promoveatur pia societas inter clerum et laicos catholicos, quae eis praesidet, et ex cuius donationibus possunt solvendi, toto vel parte, tributum a guberno exactum, et etiam subvenire durante anno voluntariato.

4. Ad hoc beneficium admitti debent solum illi alumni, qui, propter naturam suam et antecedens mores, spem fundatam praebent, ut vocationem suam servent, non obstante anno voluntariato, et ideo cursum ecclesiasticum prosequantur; alioquin, alii incitari possunt ad mendacium, et inutiliter liberalitas confertur illis qui non sustineant militiam triennalem, et qui, post unum annum voluntariato, a cursu ecclesiastico se retrahent, praetextu inconstantiae vocationis.

5. Illi alumni qui, propter defectus corporis, sub reformatione sunt, ad S. Ordines promoti esse poterunt etiam intra biennium, in quo alio consilio militiae subici possunt, si defectus talis sit, ut non dubitemur, quod iudicium reformativae praecedentis revocetur.

6. Tamen, firma manent praescripta sac. Canonum, in ordine ad illos qui defecta habent quae irregularitates inducunt, pro quibus in singulis casibus dispensationem Pontificiam implorari debet.

7. Magis cautela requiritur pro iis iuvenibus clericis, qui militiam activam tres vel quinque annos sustinuerunt, et qui nunc ad cursum ecclesiasticum suscipiendum se praebent. Criteria pro admissione eorum possunt esse:

a) Vocationem ad statum ecclesiasticum satis demonstratam in antecedenti tempore;

b) Morum suorum conductam durante militia militari;

c) Firmum propositum cursum ecclesiasticum suscipiendi, postquam ad domos suas rediverunt.

8. Sed ut certitudinem moralem habeant de bonis affectibus conservatis a iis iuvenibus clericis inter arma et pericula casematum, Reverendissimi Episcopi non parnabunt labores suos, sed omnia media probata adhibebunt, si non ad superandum, saltem ad minuenda multa quae

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obstant; et inter alia, suggeruntur sequentes:

[*Latin ed. p. 42*]

42. S. R. I. INQUISITIONIS a) Aquaeigianiche partono con il proposito di perseverare nella loro vocazione, oltre a conservare lo spirito mediante la possibile frequenza delle pratiche religiose e la lettura dei libri ecclesiastici, non escluso il *De Imitatione Christi* di Kempis, dovrebbero imporsi l'obbligo, e se necessario anche per iscritto, di tenere sempre informato il proprio Vescovo riguardo al luogo dove saranno di servizio, per raccomandarli alla sorveglianza, carità e consiglio dell'Ordinario locale, e di fornire a quest'ultimo opportune informazioni, mediante la cooperazione di qualche buon ecclesiastico, o anche laico, fra quelli segnatamente che saranno iscritti alla pia Associazione per il contributo alla tassa del volontariato, di cui all'art. 3. Questa specie di tutela è ritenuta necessaria ed oltremodo proficua; e i reverendissimi Vescovi non dovrebbero esitare a prestare questo utile ufficio. b) Quelli a cui favorissero informazioni e disposizioni, potranno al loro ritorno essere riammessi allo stato clericale, ma non così facilmente agli ordini sacri; mentre prima dovrebbero essere richieste sufficienti prove della loro vocazione, mediante la dimora di qualche anno in qualche convitto ecclesiastico o seminario, separatamente però dagli alunni, ed ove sia difetto di tali luoghi, sottoporli alla direzione e sorveglianza attiva di qualche pio, dotto ed esperto sacerdote, per far rivivere in essi lo spirito ecclesiastico, e correggere quei difetti, che, per quanto si voglia, è assai difficile che non abbiano contratto nella vita militare. c) Infine, la maggiore o minore necessità di ministri dovrebbe essere il movente a facilitare più o meno la promozione dei medesimi agli ordini sacri, per non esporre gli unti del Signore ad assumere il servizio militare più o meno attivo, a seconda delle diverse categorie, e, in caso di guerra, di subire pure le conseguenze funeste della medesima. 9. Per gli stessi riguardi, non minori cautele sono richieste nella collazione dei benefici, ossia dei canonicati della Cattedrale, specialmente Teologico, Penitenziale e Parrocchiale. Di questi ultimi, tranne il caso di assoluta necessità, dovrebbe adottarsi, per massimale collazione, fra coloro solamente che sono esenti da ogni servizio militare per aver varcato il 39° anno della loro età. 10. Ad agevolare tale intento, sarebbe opportuno...

[*Latin ed. p. 43*]

S. R. U. INQUISITIONIS 43 e d: It is useful, most Reverend Bishops, that with your zeal you strive to promote vocations, so that young men may be shielded from every danger of becoming soldiers, by educating them for the sacred ministry in the Seminary, separately from the other students, or in another manner that you will deem conducive to their success.

11. However, when necessity compels the conferral of Parishes or

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other ecclesiastical offices upon priests, who, despite having previously completed their military service according to the categories to which they belong, are nevertheless bound by law to take up arms in case of war, it will be prudent for the most Reverend Bishops to exercise caution in the conferrals; declaring in such cases the provision to be movable; or, at the very least, ensuring that they accept the condition of freely relinquishing a portion of the revenues and proceeds of the parish benefice, according to the prudent judgment of their own Bishop, in favor of those who might temporarily need to fulfill the duties.

12. The same condition should be required in the provision for the Penitentiary and the Theological [offices].

13. When, for reasons of merit or other titles, the provision is reserved to the Holy See, it will also be opportune for the most Reverend Bishops, in the commendatory letters they send, to expressly mention the condition of the candidates, that is, whether they are still or are not subject to military law.

14. The measures of vigilance noted under article 8, letter «, should be applied to clerics of whom article 11 speaks, as often as, in the case of war, they should be required for military service; and upon their return from service, it will be expedient to allow them to abstain from the sacred exercises for some time, before they assume the sacred ministry, in order to rekindle the ecclesiastical spirit.

15. For the aforementioned cases, the most Reverend Bishops may dispense from the law of residence in Parishes or other benefices, those who would be hindered in their office, as well as from the regularity for clerics or priests who may have been subject to it during military campaigns.

16. In the event of exceptional cases and circumstances not foreseen, it will be prudent for the most Reverend Bishops to seek analogous instructions from the Holy See.

Rome, September 16, 1875.

CARD. PATRIZI.

[*Latin ed. p. 44*]

44. The Latin version of the Sacred Congregation of the Holy Office, concerning the decree regarding the military draft and its application to clerics. The Most Holy Congregation, by the name of its Office, having received a mandate from the Most Holy Father concerning the examination of the law regarding the military draft recently promulgated in the Italian States, and after diligently considering the matter in a meeting held on the Feast of the Transfiguration, on the first day of October of the year 1875, has decided that, in order to overcome the numerous difficulties that arise, and to facilitate the advancement of those clerics who are duly endowed

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with all the prescribed conditions according to the sacred canons, and to prevent those who, after receiving stipends, do not offer a certain guarantee that they will be good and useful priests, it has judged it fitting to provide the Bishops of the Italian dioceses with certain rules, instructions, and documents that can be applied to various possible circumstances; and all of these are contained in the following articles.

1. Regarding those ecclesiastical students who, to their great misfortune, belong to the first category, and who cannot hope to be exempted from military service when it is required, nor, lacking funds, to postpone their military service for a year, it is necessary that their promotion to the sacred orders be entirely postponed until they have completed three or five years of military service, provided that there are clear and certain proofs of their divine vocation.

2. It does not seem appropriate to grant, in particular cases, a postponement of twenty-five years, in place of grace, for the purpose of undergoing either voluntary service for one year, or compulsory service for three years, as is the case with those mentioned in articles VII, VIII, and IX of the law; and this is done so that the studies may be completed, and the sacred orders received; because, although such requests might perhaps be granted, they would entail a very harmful and irreparable disadvantage for the Church, and also for the students themselves, if it should happen that, at the time when they are making their stipends, they lose their divine vocation, as they say, and are led into vice or error.

3. It seems more useful to undergo military service for one year voluntarily. For this purpose, the Roman Bishops, or even among the clergy...

[*Latin ed. p. 45*]

I. The Holy Roman Inquisition of Kos, or, among Catholics, a society to which the same Bishops will attend, will take care to establish and promote it within their dioceses; and its endowments may be paid in full, or in part, according to the condition of the students, and to assist them during the time of their voluntary service.

2. This benefit should, above all, be conferred only upon those students who, by their good character, and also by the reasons for their modest and virtuous life, offer the firmest hope of persevering in the holy purpose of voluntary service, and therefore of subsequently pursuing a course of ecclesiastical life; and to whom, perhaps, idleness is hateful, and who are not seduced by the generosity of the wicked, who, abhorring a three-year military service, after a year of voluntary service, have abandoned the purpose of ecclesiastical life, feigning a defect in divine vocation.

3. Students who are excluded from military service for any reason of bodily infirmity, may be admitted to the sacred Orders, even within the two years in which the other candidates are subject to the counsel of the military

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authorities; provided that the infirmity is such that there is no doubt that the previous judgment of exclusion should be revoked.

4. However, those things which are established by the sacred Canons remain firm and immutable, with regard to those who, by bodily infirmities, incur an irregularity, which they call a "defect"; for whom a dispensation must be implored from the Roman Pontiff in each case.

5. Greater precautions must be taken with regard to those young clerics who, having been compelled to serve for five years, then undertook an ecclesiastical habit and life. The criteria for admitting them may be these:

a) A divine vocation to the ecclesiastical state, already sufficiently demonstrated.

b) A commendable manner of life constantly maintained throughout the time of service.

c) A firm purpose, immediately upon their return home, to resume the ecclesiastical habit and life.

6. But in order to have moral certainty of the good dispositions of mind, as if these clerics, among the arms and the dangers of companionship, have been preserved, the Roman Bishops will use all diligence, employing all the means that may occur to them to overcome, or at least to lessen, the many difficulties that may arise; of which some are suggested here.

[*Latin ed. p. 46*]

46. S. R. I. INQUISITIONIS a) Ad eos adolescentes, qui, cum animo firmissimo, perseverant in sacra vocatione, praeter salutaria monita, ut spiritum Religionis, officia quae adfieri poterunt, frequentando, et libros ecclesiasticos, praesertim vero Kempisianum *De Imitatione Christi* legendo, excolant et conservent, obligatio imponenda esset, si possit, etiam scripto tradita, proprium Episcopum certiorem continenter faciendi de locis ubi idem cum militiae sociis diutius constituri sint, ut eosdem localis Episcopi vigilantiae, charitati, ac prudentiae commendare, atque ab ipso aptas de illis cognitiones accipere possit, adiuncto adiutore ibi aliquo probro viro ecclesiastico, vel etiam laico, ex iis praesertim, qui Societati a contribuenda pecuniaprosolutione vectigalis voluntarias militibus impositi, de quo sunt. in Art. 3., nomen dederint. Haec tutelae species necessaria, nedum valde utilis, reputatur; nec enim Episcopis grave videatur huius modi officium sibi mutuo exhibere. b) Si de quorumoribus satis aequae relationes habitae fuerint, domum reversi in Clericorum numerum denuo admitti poterunt; at vero non ita facile ad sacros Ordines; prius enim haud dubie divina evocationis argumenta exigenda forent impositis iisdem Clericis mora unius alteriusve anni in aliquo ecclesiastico Collegio, aut in ipso Seminario, disiunctis tamen ab Alumnis; et si huius modi loca desint, eos regimini ac sollerti vigilantiae alicuius probi, docti et prudentis Presbyteri sub iicere praestat; ut in ipsis iuvenibus spiritus

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ecclesiasticus reviviscat, vitia corrigantur, quaecumque, quantum liberi fuerint, summopere difficile est, eos in militiae exercitatione contraxisse. c) Denique maior aut minor sacrorum Ministrorum in unaquaque Dioecesi necessitas criterium esset de eorum ad sacros ordines promotione facilius vel difficilius perficienda, neque quando Domini, ingruentes bello, a militiae plus minus veluti, pro variis categoriis in quibus conscripti sunt, cum iis, quae exinde consequi solent, affatim funestis incommodis, denuo subeundam cogantur. 9. Easdem ob causas haud leviores exiguntur cautiones in Beneficiis, seu canonicatibus cathedralium, conferendis, theologicae praesertim, poenitentiario et parochiali: quorum postremi in eostantum modo conferri deberent, extremae casus necessitatis excepto, qui militari delectui iam amplius obnoxii non sunt.

[*Latin ed. p. 47*]

S. R. U. INQUISITIONIS 47, utpote qui rectores sunt, nonnumquam aetatis suae annum transgressi: quod quidem tamquam axioma firmissimum profecto esset in praxi adoptandum. 10. Ad hoc consilium actu facilius reddendum, laedum esset atque utile, per Rmos Episcopos ecclesiasticos, ut aiunt, vocationes in adultis iuvenibus ab omni prore militiae iterum quandoque subeundae periculo exemptis, sedulo promoveri, sive illos in Seminariis, sive junctim ab alumnis, a sacrum ministerium educando, sive alios quovismodo, quemad felicem exitum obtinendum oportuni iudicabunt. 11. Si quando vero Parochias et cetera ecclesiastica Beneficia iis sacerdotibus, qui etsi juxta categorias adquascent, militiae cursum iam completverint, civili tamen lege ad arma iterum capessenda, urgente bello, obligentur, conferenda, forte necessitas cogeret, prudenti Rmorum Episcoporum consilio committitur specialibus, in iisdem conferendis, cautionibus uti, viris in Beneficii possessionem immissum hisce in casibus movibilem declarando; aut saltem illum prudenter adigendum conditioni adstipuletur, portionem reddituum atque prowentuum Beneficii parochialis, juxta prudens proprii Episcopi arbitrium, ei qui ipsius absentis vices interim gesturus sit, sponte relinquendi. 12. Eadem conditio in poenitentiarii et theologalis Canonicatus collatione exigenda foret. 13. Cum pro variamensium ratione, aut aliis de causis, ads. Sedem collatio spectato opportunum itidem erit, per Rmos Episcopos in Commendatitiis uteris, quaedantur, conditionis, in qua versantur ii, qui ad Beneficium assequendum concurrunt, expressis verbis mentionem fieri; videlicet utrum legi militiae quandoque se beundae sint, necne adhuc obnoxii. 14. Eae idem vigilantiae rationes, in Art. 8 sub Lit. a ad nota tae, quoad illos ecclesiasticos viros adhibendae essent, de quibus in Art. 11. sermo est, quoties hi imminent belli militare; utque fuerint a militia domum reversi, post statos dies piis Religionis officiis, quibus ecclesiasticus spiritus iterum excitetur, antequam sacrum Ministerium denuo exercendumsuscipiant, operam daturi secedant oportet. 15. Iis

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in casibus quihactenus commemoratis sunt, Rmi Episcopi Parochos, ceterosque Beneficia ecclesiastica habentes ab assidua, ad quam officii su rationem recogerentur, praesentiae.

[*Latin ed. p. 48*]

48. From the laws of the HOLY OFFICE, exemptions can be granted: and likewise, Clerics and Priests who, I say, may perhaps have fallen into irregularity during the entire time of their military service, can be absolved. 16. If any cases should arise that are not ordinary and unforeseen, it will be prudent for the Ordinary Bishops to appeal to the Holy See in order to receive appropriate instructions.

C. CARDINAL PATRIZIO, from the SACRED CONGREGATION OF RITES, DECREE concerning the confirmation of the ancient cult rendered to the Servant of God, the Virgin Gemma of the town of Gordiano in Sicily, who is now venerated as a Saint and Blessed. In the town of San Sebastiano, in the diocese of Marsorum, the Virgin Gemma was born. Her parents, in order to acquire the means to support a virtuous life, emigrated with her to the town of Gordiano in the diocese of Valvensis, taking the girl with them, to whom they entrusted a small flock to graze. However, with the intention of preserving her inviolate virginity, this pious Virgin, still young, withdrew to a small cell: where, like a dove in its nest, she lived a solitary life, desiring to adhere to God alone. There she spent forty years, and finally, having been struck by a fatal illness, she received the sacraments and surrendered her immaculate soul to God in the year 1429, as tradition recounts. Immediately after her death, God, wishing to attest the sanctity of His servant, manifested wondrous signs. From the devotion to the Blessed Gemma, miracles arose, and so it happened that, from that time onward, the public cult was exhibited to her, which, even to the present day, continues without any interruption. Therefore, the Most Reverend Tobias Patroni, the present Bishop of Vaivén and Sulmona, having demonstrated, with the help of monuments that he considered sufficiently authentic and evident, that from time immemorial, and long before the decrees of Pope Urban VIII, the aforementioned Servant of God received public ecclesiastical cult, obtained from the Most Holy Lord, our Pope Leo XIII, through a decree of the Sacred Congregation of Rites.

[*Latin ed. p. 49*]

From the Sacred Congregation of Rites, dated August 1st of the preceding year, concerning the matter under consideration, it was determined that ordinary and juridical investigations should be conducted. These investigations were carried out with the diligent collection of documents by the Most Reverend Bishop himself, and the inauthentic form of the acts was duly presented to the Sacred Congregation. In particular, the Breviaries of Benedict XIV and Pius IX were presented. Consequently, at the request

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of the aforementioned Most Reverend Bishop, during the ordinary meetings of the Sacred Congregation of Rites, held at the Vatican on the date indicated, His Eminence and Most Reverend Cardinal Raphael Monaco, Bishop of Ostia and Velletri, presented the following question for discussion: "Does this case fall under an exception to the decrees of His Holiness Pope Urban VIII, in the case and for the purpose under consideration?" Furthermore, after a careful examination by the Most Reverend Fathers presiding over the Sacred Congregation for the Preservation of Rites, and after hearing the voice and written opinion of the Reverend Father, Doctor Augustine Capra, Promoter of the Holy Office, it was decided to respond to the proposed question as follows: "Affirmatively, that is to say, that this case falls under an exception to the decrees of His Holiness Pope Urban VIII." This was on March 27th, 1890. The aforementioned facts were subsequently reported in a faithful account to His Holiness, our Lord Pope Leo XIII. His Holiness, having approved the decree of the Sacred Congregation, confirmed the public ecclesiastical cult rendered to the Blessed Virgin Gemma from time immemorial. This was on April 28th of the same year.

Card. L. ALOISI-MASELLA, S. B. C. Prefect

S. VINCENT Nussi, S. B. C. Secretary

From the Sacred Congregation of the Index: Decree, on Feria VI, July 18th, 1890. The Sacred Congregation of Eminent and Reverend Cardinals of the Holy Roman Church, by order of His Holiness Pope Leo XIII and the Holy Apostolic See, concerning the Index of books of false doctrine, and their condemnation, expurgation, and permission throughout the Christian Republic, Acts, Vol. XXIII, page C OL XV, 4.

[*Latin ed. p. 50*]

50. FROM the Index of Prohibited Books, the Prefects and Delegates order that the following works be included in the Index of Prohibited Books, having been condemned and proscribed by the Most Holy Roman and Universal Inquisition: *Lo spiritismo in senso cristiano*, by Teófilo Coreni, – Published by the Typographic-Publishing Union. Rome - Turin - Naples, 1890. – Decree of the Sacred Office, April 16, 1890. *Les annales de Loigny*, appearing on the 1st Friday of each month. – Address: M. Glénard, at Loigny, near Orgères (Eure-et-Loir), Secretary of the Œuvre du Sacré-Cœur de Jésus Pénitent de Loigny. – Decree of the Sacred Office, June 11, 1890. *La vérité sur les condamnations qui frappent Mathilde Marchat (Marie-Geneviève du Sacré-Cœur de Jésus Pénitent) à Loigny au diocèse de Chartres, et les partisans de ses révélations.* – Saint-Malo, Imprimerie du Commerce, Y. Billois, 8, rue Robert-Surcouf, 1889. – Ibid. Decree. The question of Loigny, February 28, 1890. – Necessity for all to make an appeal to His Holiness Leo XIII. – Saint-Malo, Imprimerie du Commerce, Y. Billois, Rue Robert-Surcouf, 1890. – Ibid. Decree. Therefore, no one of any rank or condition may dare to publish, or to read or retain, in any language, the

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aforementioned works, but rather they are bound to hand them over to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These matters, having been related to the Most Holy Lord our Pope Leo XIII by me, the undersigned, Secret Index, His Holiness approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome, July 18, 1890. CAMILLUS Cardinal MAZZELLA, Prefect. HYACINTHUS FRATI, of the Order of Preachers, Secret Index Congregation. Place of the Seal. August 2, 1890. I, the undersigned, Magister Cursorum, testify that the aforementioned Decree was affixed and published in the City. Vincentius Benaglia, Magister Cursorum.

[*Latin ed. p. 51*]

APPENDIX 51 L In which more are related Decrees of the Holy Congregation of Rites. ISOLANA. Some Canons of the Cathedral Church of Isclana have explained that there, on the feast day of the Holy Patron of the Diocese, the Canons and all others specifically named usually proceed in the vulgar idiom before the Most Reverend Bishop celebrating the Pontifical Mass, to offer obedience by kissing his hand. However, some of the Canons, who are distinguished by the title of Protonotary, tend to call themselves "Monsignore," which the other Chapter members find displeasing. Therefore, with the consent of the Most Reverend Bishop of Isclana, the following question was humbly submitted to the Sacred Congregation of Rites for a suitable solution: Should a Canon, who is a Protonotary, when present with the Chapter and in his own canonical habit for the act of obedience, be addressed to distinguish him from the others, by the aforementioned vulgar prelatic title, with the preceding words "Canon and name N. N."? Furthermore, the same Sacred Congregation, after considering the report of the undersigned Secretary, and at the express request of another of the Masters of the Sacred Ceremonies, ratified the following response: In this case, all Canons should be called in Latin without distinction, only with these words: "Most Reverend Canon N. N." And thus it was written and it was ordered to be observed. February 1, 1886. QUESTIONS. To the Sacred Congregation of Rites, when it is inquired whether, in private recitation, the Psalms should always be separated from Matins, it should always be concluded after the respective prayer with "Dominus vobiscum," etc., and "Fidelium animae," etc., as well as with the "Our Father," according to the opinion held by Saint Alphonsus de Liguori in his work *Theologia Moralis*, Book IV, Article IV, paragraph 167? The same Sacred Congregation responded: Affirmative. And thus it responded. February 1, 1886. CARTHAGINE. Reverend Father Marian Perez Estbeau, of the City of Murcia, Parish Priest of Castrum, with the consent of the Most Reverend Ordinary of the Diocese of Carthagene, humbly proposed the following ques-

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tions to the Sacred Congregation of Rites:

[*Latin ed. p. 52*]

82 APPENDIX I. Question I. Should Spanish priests, when blessing marriages, adhere solely to the rubrics of the Roman Ritual, or should they also comply with the prescriptions found in the Toledo Manual, which was appended to the Roman Ritual for the churches of Hispaniae? Question II. Is it permissible, or not, for Spanish parish priests to freely use, at their own discretion, the aforementioned rubrics from the Ritual and Manual, concerning the blessing of marriages, as noted in both? And the Sacred Congregation of Rites, in response to the questions submitted by the undersigned Secretary, has ordered the following reply to be given: In the case where the Roman Ritual is used. And it has replied thus. On February 16, 1886. CONGREGATION OF THE CISTERCIAN ORDER. Since the nuns of the Cistercian Order residing in Hispaniae were unaware of the calendar approved and confirmed by the Apostolic See on February 7, 1871, they have, until now, followed the Divine Office according to the ancient calendar contained in their Breviaries, which differs in several respects from the more recent one, and in which are found certain feasts that are observed by both clergy in Hispaniae, or in their respective dioceses. Now, however, due to knowledge of the aforementioned new calendar for the entire Cistercian Order, certain doubts have arisen for these same nuns, which they have humbly submitted to the Sacred Congregation of Rites for a suitable solution, namely: Question I. Is it obligatory for all religious, of both sexes, belonging to the Cistercian family, to observe the most recent Cistercian calendar, excluding any and all from the ancient calendars? Question II. Can, or should, the religious of the Order recite the Offices of Dedication of the Cathedral Church, of the Patrons of the Kingdom, of the Diocese, of the City, and other Offices prescribed to both clergy, in the places where they reside, as they did before? Question III. Can these Offices be retained by the nuns in Hispaniae, which they have followed until now, even though it is not stated in their Breviaries and Appendices, intended for the use of their Order, that they are permitted for all, even if it is probable from the very fact of their admission and custom? Question IV. Are the most recent Offices to be added, which have been prescribed by the Apostolic See for the entire Church? And the aforementioned Sacred Congregation, having considered the questions submitted in the report of the undersigned Secretary, has decided to respond as follows: To I. Affirmative. To II. Affirmative, if it can be shown that these Offices are suitable for the Cistercian rite, and have been granted and approved for the nuns by the Sacred Congregation of Rites; otherwise, Negative.

[*Latin ed. p. 53*]

)ix i. Regarding the matter, a dispensation must be requested from the

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Apostolic See. Ad IV. They are not required, but may be added, after the rites have been adapted to the Cistercian form. And thus it was written and declared. On February 27, 1886, in MEXICANA. To the Most Illustrious and Reverend Lord, as Brother: This Apostolic See inquired of Your Eminence whether the use of a veil, which is commonly used in the churches of this region of MEXICANA, in the rite of the Sacrament of Matrimony, is permitted or not. Since the Sacred Congregation of Rites has not forbidden such a custom in those places where this most ancient custom prevails, as in the dioceses of Gaul, Your Eminence may permit it to be observed in the Archdiocese entrusted to you, notwithstanding any contrary provisions. Rome, February 27, 1886. To the Most Illustrious and Reverend Lord, as Brother: The Archbishop of MEXICANA. FROM THE BASILICA OF ST. LAURENTIUS IN DAMASO IN THE CITY. On behalf of the Chapter of the illustrious collegiate Basilica of St. Lawrence in Damaso in the City, in which the main altar is of Eastern form, but consecrated in its entirety, the following was inquired: Whether, outside the choir, a Mass may be celebrated on the front part of the same altar for the convenience of the people, and whether the bread of Angelorum may be distributed to the faithful, and whether the Most Holy Eucharist may be publicly exposed and blessed with it present, as well as in the sacred functions of triduums, novendials, and others of the same kind, and even when the solemn repose of the same Most Holy Sacrament takes place during the Forty Hours of Prayer? The Sacred Congregation of Rites, after mature consideration of the report of the undersigned Secretary, responded to the aforementioned question as follows: Affirmative: However, in the Forty Hours, the Mass should be celebrated in the western part, if possible, with the choir present in the same part. And thus it was written and declared. On March 30, 1886. VICARIATE APOSTOLIC OF CONSTANTINOPLE I. The current calendar for the churches of the Vicariate Apostolic of Constantinople, which is largely presided over by an Archbishop who holds a titular see, adds the most ancient custom of collecting for the Bishop, both on the anniversary of the episcopal consecration of the Patriarch for the time being, and on his entry into the same Vicariate; humbly requested from the Apostolic See:

[*Latin ed. p. 54*]

54 APPENDIX For since the words to be used must be uniform in the Prayers, the Secret, and the Postcommunion, why is it that some priests, to the not inconsiderable admiration of the faithful, seem to freely declare the title of their Most Reverend Ordinary in a manner different from others? Furthermore, the Sacred Congregation of Rites, after careful consideration of a report from the Secretary, and a fervent request from another of the Masters of the Sacred Ceremonies, decided that, concerning the aforementioned matter, the following should be stated: In such a case, it should be said: "Your servant N., whom you have willed to preside over this Church";

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and likewise in the Secret and the Postcommunion: "With our Bishop." And so it decreed. On March 30, 1886. DOUBTS. When it was asked by the Sacred Congregation of Rites: Whether, on the Feast of Saint Joseph, the patron saint of the universal Church, a pious association, which recites the Office of the Blessed Virgin Mary in chapels, ought to recite the hymn "Te Deum," as is prescribed on the Feast of the Annunciation of the Lord? The same Sacred Congregation, after receiving a report from the undersigned Secretary, responded: Affirmative. And so it responded and decreed. On March 30, 1886. VALLISOLETANA. The Most Reverend D. Benedict Sanz y Fores, Archbishop of Valladolid, I. Submitted the following doubts to the Sacred Congregation of Rites for appropriate resolution: Doubt I. On Thursday of the week, during the celebration of the Lord's Supper, the most sacred Host, consecrated for the Mass of the Pre-sanctified, is exposed in almost all the churches, both of this Archdiocese and of other churches in Spain, in a tabernacle or receptacle, which, although secured with a key, is not entirely closed, but has a small opening protected by crystal, so that the chalice, covered with a veil, appears to the eyes of the adorers, and the Pix [consecrated Hosts] are seen in the open tabernacle, as if in an exposition of the Most Holy Sacrament. The question is whether this practice, which is widespread, is permissible, or whether it should rather be eliminated, even though the prohibition may be contrary to the devotion of the faithful? Doubt II. In some dioceses, the consecration of the Oil of the Sick is instituted on Thursday of the week, during the celebration of the Lord's Supper, and the aforementioned Oils are carried through the church under a baldachin. Since this seems to be contrary to the decrees, which prescribe that no signs of worship should be given to the holy Oils, nor should they be carried processionally in churches, it is asked whether it is permissible to continue this practice of carrying the holy Oils processionally, not by the direct way to the sacristy, as is prescribed in the Pontifical, but through the church, and under a baldachin? And the Sacred Congregation, after careful consideration of a report from the undersigned Secretary, decreed as follows:

[*Latin ed. p. 55*]

The following questions, having been presented, were answered as follows: To I. The custom, concerning which in this case, must be eliminated. To II. Affirmative, except for the baldachin. And thus it was answered. On March 30, 1886. From HALIFAX. The Most Reverend Mr. Cornelius O'Brien, the present Archbishop of Halifax, humbly submitted the following questions to the Sacred Congregation of Rites for a suitable solution, namely: Question I. Whether, in churches simply dedicated, and not consecrated, the feast day of the church itself ought to be celebrated in a special manner, or not? And if affirmatively, how should it be celebrated? And what should be done, when the titular office is not found in the Roman

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Breviary? Question II. When a Bishop, besides the Cathedral, has other churches from which he receives some benefit for its support, must he, when the feasts of the Saints are being celebrated, add a commemoration of the titular saints of those churches, or is a commemoration only of the titular saint of his own Cathedral sufficient? Does the same rule apply to a Missionary, who has other churches besides the principal one? Question III. Is a Bishop obliged to celebrate the anniversary of his election in a special manner? And if affirmatively, how, and on what day should the anniversary be observed? And the Sacred Congregation, after considering the report of the undersigned Secretary, and after the careful opinion of another of the Masters of the Apostolic Ceremonies, decided to answer the questions presented as follows: To 1. Affirmative, concerning the first part; concerning the second, it should be celebrated according to the rite of the first class, with an octave; concerning the third, in this case, the Office should be taken from the Common of the Saints. To II. He is obliged only to add a commemoration of the titular saint of the Cathedral church: but a Missionary, to whom the care of many churches has been entrusted, is obliged to add a commemoration of the titular saint of the more important church, or at least of the church where he is to reside, according to the meaning of the Decree given for the Apostolic Vicariate of Bombay, Northern. To III. Affirmative, concerning the first part; concerning the second, as sufficiently taught by the Ceremonial of Bishops; concerning the third, the day of the election is that on which the appointment of the Bishop is publicly announced by the Supreme Pontiff in the Consistory. And thus it was decided, declared, and ordered to be observed. On April 16, 1886. From ORIOLA. The Most Reverend Mr. Victorian Guisasola y Fernandez, the present Bishop.

[*Latin ed. p. 56*]

56 APPENDIX I. Opinion of Oriolen. The following questions were humbly submitted to the Congregation of Sacred Rites for a suitable declaration:

Question I. Whether the Apostolic Letters, which begin with the words "Charitatis viscera," issued by Pope Gregory XVI on May 14, 1833, in favor of the Daughters of Charity of Saint Vincent de Paul, for the erection of a private oratory within their house, are valid, so that Masses may be celebrated therein, when the same buildings, in which they reside or to which they minister, have a public church attached?

Question II. And, assuming the affirmative, whether the Most Holy Sacrament may be reserved in such oratories, which are strictly private, without prejudice to the fact that in the attached church, as mentioned above, the same Most Holy Sacrament is perpetually kept in the tabernacle?

Question III. And, assuming the affirmative, whether it is permissible that the Most Holy Eucharist be reserved day and night in such private

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oratories without a priest residing there, solely entrusted to the Sisters?

Question IV. Whether a Bishop of a Diocese has the faculty of granting to Sisters of any new Institute or new Congregation of simple vows, who are diligently engaged either in the education of girls or in any works of charity, the permission to erect a private oratory within their houses, which are often small, so that sacred rites may be performed there, and the Most Holy Eucharist may be perpetually reserved, without a priest residing there, but solely with the Sisters residing there?

And the Sacred Congregation, after mature deliberation on the report of the undersigned Secretary, considered it appropriate to respond to the aforementioned questions as follows:

To I and II: Affirmative.

To III: Affirmative, subject to the conditions contained in the Apostolic Brief.

To IV: Negative.

And thus it was declared and written.

May 8, 1886.

FOR THE WHOLE WORLD.

Among all the virtues by which the Catholic Church shines, charity stands out as a prominent mark, by which the Divine Founder Himself wished His disciples to be clearly distinguished from all others. Hence, wherever the Church has raised a sign, it has been so that relief may be found for the sorrows of the human race, and that care may be especially devoted to those who are burdened by infirmity, or who are finally overcome by illness, and are about to complete the course of their mortal life. This most noble virtue has been exemplified by the illustrious Confessors, Saint Camillus de Lellis, and Saint John of God.

[*Latin ed. p. 57*]

57 I. They did not hesitate to assert: for one, by offering comfort to the sick in their final struggle, strengthened their bodies and souls through the ministry of the sacraments; the other, by providing medicine and all assistance to the bodies of the sick, more easily aided their salvation. Moreover, these men, with such great mercy, founded a Congregation, or new families within the Church of Christ, in which their spirit of zeal burned unceasingly, and from which such fruits of charity would continually arise for the benefit of the sick. However, in these unfortunate times, unrighteous men, greedy for worldly glory, gathered together to destroy the religion, and, as they say, civilly imitated the marvels of Christian charity; while the Asiatic plague raged, they attacked those very ones, ostensibly to offer help, but often to deprive the weak of spiritual assistance. Therefore, the desire

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of the faithful, and especially of the sacred pastors, arose to recognize these holy heroes of charity as patrons of all hospitals and of the sick everywhere, and to invoke them in the litanies of the dying. Consequently, when the Most Eminent and Reverend Lord Cardinal Mieczysław Ledochowski presented the petitions for the intercession of these saints in the assembly of the Sacred Congregation of Rites, gathered at the Vatican on a certain day, the Most Eminent and Reverend Fathers, who preside over the sacred rites, after mature deliberation, having heard the opinion of the Reverend Father Augustine Caprara, Promoter of the Holy Faith, decided to respond as follows: "Concerning the granting of the patronage of Saints Camillus de Lellis and John of God to all hospitals and to the sick everywhere, and the insertion of the names of Saint Camillus and Saint John of God in the litanies of the dying, after the name of Saint Francis." On May 15, 1886. These matters, faithfully reported to His Holiness Pope Leo XIII through the undersigned Secretary, were deemed by His Holiness to be approved and confirmed by the Sacred Congregation, so that Apostolic Letters may be issued concerning these matters in the form of a Brief. On the 26th of the same month and year. DOUBTS. It was asked by the Sacred Congregation of Rites whether the Tertiary Franciscans are justly entitled to precedence over any secular sodalities? The same Sacred Congregation, after mature deliberation on the report of the undersigned Secretary, decided to respond as follows: Regarding the passage of Apostolic Constitutions, as well as the declaration of the Sacred Congregation of Bishops and Regulars of the date of...

[*Latin ed. p. 58*]

58 APPENDIX September 7, 1748, To the group of Franciscan Tertiaries who are constituted, namely, those wearing their own habit and walking with the Cross, there belongs the right of precedence over all secular sodalities. And thus it was decreed and declared. On May 28, 1886. (Breda. The Most Reverend Lord Peter Leyten, the present Bishop of Breda, humbly submitted the following questions to the Congregation of Sacred Rites for a suitable solution, namely: Question I. In the following year, 1887, on July 31, which is a Sunday, in the Diocese of Breda, the Office of the Octave of the Dedication of all the Churches of the Diocese occurs: hence, no day of the week remains free for reading the beginning of the parables of Solomon. Therefore, it is asked whether and on what day in this case, that beginning should be read? Question II. Similarly, in the following year, during the fifth week of November, in those churches of Belgium and France whose titular saint is Saint Catherine, Virgin and Martyr, and there, on November 25, the aforementioned Office of the Octave I of the Dedication of all the Churches occurs, so that only six days out of seven remain free for reading the beginnings of the Prophets. Therefore, it is asked whether and when in this case, those same beginnings should be read? And the Sacred Congre-

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gation itself, after considering the report of the undersigned Secretary, and with the careful opinion of another of the Masters of the Ceremonies of the Apostolic See, after mature deliberation, decided that the following should be written in response to the questions proposed, namely: Regarding I. The beginning of the parables of Solomon, in this case, it should be read during the course of the week in one of the Offices, provided that it has its own readings, which does not give precedence to the rite or dignity or solemnity with respect to the day of the Octave of the Dedication; otherwise, the aforementioned beginning should be read on that very day of the Octave. Regarding II. Let it be decreed in the Decree of the Order of the Minor Observant Reform, of March 27, 1779, number 13 (1). And thus it was decreed and declared. On June 28, 1886. FOR THE CITY AND THE WORLD. Following are the Encyclical Letters of the Most Holy Pope Leo XIII (1) ORDER OF THE MINOR OBSERVANT REFORM OF SAINT FRANCIS. 13. In many places, during the fifth week of November, because of the multitude of Offices that have readings of the First Nocturn, or in common, there are often not enough days to recite all the beginnings of the Minor Prophets, although three beginnings are recited on one day. The question is asked: whether in this case, the beginnings that cannot take place should be omitted, or should they be recited in the Office of the half-Vespers, and in the Office of the greater or lesser Vesper, even if they have readings of the First Nocturn, either proper or in common? To 13. Negatively regarding the first part, affirmatively regarding the second.

[*Latin ed. p. 59*]

On the first of September, 1883, and again on August 30, 1884, the Sacred Congregation of Rites, considering the grievous afflictions which continue to beset the Catholic Church, and desiring to give thanks to God for the restored full liberty of the Supreme Pontiff, decreed, with the approval and command of the Supreme Pontiff, that, as long as these most grievous afflictions endure, in all Cathedrals and parish churches of the Catholic world, and in all churches and public oratories dedicated to the Blessed Virgin Mary, or in others designated by the Ordinaries, the Rosary of the Blessed Virgin Mary, together with the Lauretan Litany, should be recited daily throughout the month of October. Indeed, in the present year, which is enriched by the treasures of the Jubilee, the same Most Holy Lord, desiring that, as public and private calamities increase, so too may the confidence and resolve to seek help and remedy be strengthened, and that through Mary this may be sought from Divine Mercy, which willed that all should have everything through Mary, urges the Most Reverend Ordinaries to encourage and invite the faithful, with all diligence, to practice this form of piety, which is most pleasing to the Mother of God, and which is truly fruitful in thanksgiving, and not to neglect the frequent attendance at the Sacraments and other salutary works. Furthermore, confirming once again

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the sacred Indulgences and privileges which were granted in the aforementioned Decree, His Holiness has deigned to grant an additional concession, so that in those churches or oratories where, due to their poverty, the Exposition with the Most Holy Eucharist, according to the terms of the aforementioned Decree, cannot be solemnly performed through an ostensorium, the same may be carried out, at the prudent judgment of the Ordinary, through a special dispensation, by opening the ciborium of the pyx from the beginning, and by blessing the people at the end.

On August 26, 1886, the Most Reverend Lord Edward Joseph Belin, the present Bishop of Namur, humbly submitted the following questions to the Sacred Congregation of Rites for a suitable solution:

Question I. According to the rubric of the Breviary for the Feast Day of the fourth week of October, when October has only four weeks, the history of the martyrdom of the Maccabees should be read on Friday, Saturday, and Sunday of the fourth week. However, if Friday falls on a feast day with its own proper readings for the first nocturne, as it does this year with the feast of...

[*Latin ed. p. 60*]

60 APPENDIX I. Concerning the feasts of Saints Simon and Jude, the question is asked: what readings should be read on Thursday, whether the readings of the Sunday of the fifth week, or the readings of the second day of the same week of the fifth of October?

II. The Octave of the Immaculate Conception of the Blessed Virgin Mary fell on the fourth day of the week of the four weeks of Advent in the preceding year; according to the General Rubric, the ninth reading should be from the Homily of the day, as is the last Gospel of the Mass. Furthermore, this Gospel is the same as the Gospel of the Feast; what, therefore, is to be done?

And the Sacred Congregation, in response to the report of the undersigned Secretary, after considering all the circumstances, deemed it fitting to respond to the questions posed as follows:

To I. Affirmative to the first part, negative to the second.

To II. A decree shall be given on the 16th of September, 1865, in Iesi.

(1) And thus it responded and declared. On the 17th of January, 1887. In the year 1883, an institution was established under the title of the Most Holy Sacrament, in which a question arose concerning precedence in processions, in which the Most Holy Sacrament of the Eucharist is carried. The following question was humbly submitted to the Sacred Congregation of Rites, requesting a suitable solution through earnest prayers, supported by the office of commendation from the Most Reverend Bishop of Squillace, namely: Does the Confraternity of the Most Holy Sacrament enjoy the right of precedence in processions in which the Most Holy Sacrament of the

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Eucharist is carried, over the aforementioned Sodality?

And the Sacred Congregation, after considering the report of the Secretary, and also the earnest opinion of one of the Masters of the Sacred Ceremonies, deemed it fitting to respond to the question posed as follows: Affirmative, provided that in other processions, the Sodality of the Most Holy Sacrament proceeds according to the order of seniority.

And thus it responded and ordered it to be observed. On the 17th of January, 1886.

SQUILLACE. HARLEMEN. The current Archpriest and Parish Priest of the place commonly called Mace, within the boundaries of the Diocese of Squillace, states that two sodalities are canonically established in his church, namely, the Confraternity existing for one century under the name of the Holy Martyrs Cosmas and Damian, and the other (1) Iesi is located in Vol. I, 294. The Most Reverend Lord Gaspar Bottmann, the current Bishop of Harlemen, humbly requested the declaration of the following questions from the Sacred Congregation:

Question I. The predecessor, the former Bishop of Harlemen, died on the 1st of January, 1877, and from his will...

[*Latin ed. p. 61*]

)ix i. He left a fund for a perpetual anniversary to be celebrated by the Canons of the Cathedral Church, and the Canons fulfill this obligation on the day, according to their statutes, when they come to the Church in the month of January. The question is asked whether the present Bishop, by attending the same anniversary, fulfills the obligation prescribed (Book II, chapter 36, paragraph 1) in the *Caeremoniale Episcoporum* regarding the anniversary celebrated for the deceased immediate predecessor, especially when the deceased was the last Bishop and did not establish another anniversary to be celebrated by others, so that three similar anniversaries would have to be announced to the people for the same person?

Doubt II. When, in the year 1887, the Canons of the Chapter of the Cathedral Church of Harlem decided, by means of a perpetual foundation, to celebrate an anniversary for all deceased Bishops of that Church without any stipend, the question is asked whether the Bishop attending this anniversary, if he also intends to offer prayers for the deceased Canons, fulfills the prescription in Book II of the *Caeremoniale Episcoporum*, chapter 37, paragraph 1?

Doubt III. Furthermore, according to a Decree of the Sacred Congregation of Propaganda Fide of July 17, 1858, for the kingdom of the Netherlands, and according to their statutes, the Canons of the Cathedral Church of Harlem meet once a month in the Cathedral to recite the Third Hour, and then to attend the solemn Mass. When there are 61 anniversaries to be celebrated, in order not to have them meet on more days, they have

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become accustomed to fulfill this in the very day of the monthly meeting, by celebrating the anniversaries at the main altar, while meanwhile a Mass is read at another altar, as corresponding to the Conventual Office of the day. The question is asked whether the Chapter fulfills its office or duties in this way, and if not, whether the present Bishop should request an Apostolic Indult, because more Canons live far from the Cathedral city, so that it would be very inconvenient for them to come there more often in the month. And the same Sacred Congregation, after carefully considering the report of the undersigned Secretary, and after a thorough examination in writing by another of the Masters of the Apostolic Ceremonies, decided to respond to the questions posed, as follows:

To I. The Bishop and the Chapter should celebrate the anniversary on separate days.

To II. No, and therefore the Bishop must celebrate the anniversary separately in this case.

To III. No, and therefore each of the anniversaries mentioned in this case must be celebrated separately, and indeed on a different day, whenever the Chapter meets in the Cathedral Church on a Sunday, or on a feast of the first or second class, even if it is not a holy day of obligation. And thus they responded and declared. January 17, 1887.

[*Latin ed. p. 62*]

62 APPENDIX PRAEFECTURAE APOSTOLICAE BENGALAE CENTRALIS. Reverendissimus Dominus Franciscus Pozzi, Apostolicus Praefectus Bengalae Centralis, ad Sacrorum Rituum Congregationem, pro opportuna solutione, humillissime subiecit sequentes quaestiones:

Quaestio I. In administratione Baptismi adultorum, post tres genuflexiones, et recitatum "Pater noster," Sacerdos dicit patrino: "Signa eum," et nulla mentio fit de matrina. Quaestio est, si in absentia patrini, Sacerdos debeat dicere matrinae: "Signa eum," vel potius, omisso signo crucis per matrinam, Sacerdos tantummodo ter signet eum, more catechumeni?

Quaestio II. Interdum accidit quod desint patrini pro Baptismo solemni, vel Confirmatione, sed tantummodo praesentes sunt moniales (Sorores Charitatis). Quaestio est, num in huiusmodi casu expediat conferre ea Sacramenta sine patrinis, vel potius ut moniales adhibeantur uti matrinae in utroque Sacramento pro feminis?

Et Sacra eadem Congregatio, ad relationem Secretarii, exquisitoque voto alterius ex Apostolicarum Caeremoniarum Magistris, re mature perpensa, ita propositis Dubiis rescribendum censuit, videlicet:

Ad I. Affirmative ad primam partem, Negative ad secundam.

Ad II. Negative ad primam partem, Affirmative ad secundam.

I. Atque ita rescripsit et servari mandavit. Die 15 Februarii 1887. FULDEN. Reverendissimus Dominus Georgius Kopp, hodiernus Epis-

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copus Fulden, exponens in sibi commissa Dioecesi, iuxta antiquam consuetudinem, plurima haberi altaria portatilia, quorum tabula ex lapide densissimo imo et marmoreo constans et quinque cruribus obsignata, at sepulcrum non in medio, sed in eius fronte effossum est, ac rete clausum; insequentium Dubiorum solutionem ab Apostolica Sede humillissime expetivit, nimirum:

1. An eiusmodi Altaria sint toleranda, vel immutanda sint ac denuo consecranda?

2. Et num in posterum sepulcrum Altaris portatilis in medio tabulae lapideae effodiendum sit?

Et Sacra porro Rituum Congregatio, ad relationem infrascripti Secretarii, exquisitoque voto alte reveri ex Apostolicarum Caeremoniarum Magistris ita propositis Dubiis rescribendum censuit, nimirum:

Ad I. Quod altaria portatilia hucusque consecrata, Reverendissimus Episcopus acquiescat.

Ad II. Affirmative.

Atque ita rescripsit et servari mandavit. Die 31 Martii 1887. CATHAREN. Reverendissimus Dominus Casimirus Forlani, hodiernus Episcopus Catharen.

[*Latin ed. p. 63*]

§ IX, i, 63, considering the particular circumstances of the place, and especially the laws concerning the following questions, humbly requested the following: Is it permissible, due to the small number of priests who serve the Cathedral Church of his diocese, and who, due to their habits, are opposed to each other, to apply the following arrangement: That the choir, which has been located there since 1880, be moved, and that the statues of the Most Sacred Heart of Jesus and the Immaculate Heart of Mary be placed in its place, so that the recitation of the Hours of Prime, which takes place at the ninth hour, and the celebration of Mass, which takes place after the ninth hour, are completed before the tenth hour; and that the solution to these doubts be humbly requested from the Sacred Congregation of Rites, especially concerning the singing of Vespers during the Quadragesimal season on weekdays, namely: Can this arrangement be maintained even on weekdays during Lent, when, immediately after the celebration of Mass, namely at the tenth hour, the singing of Vespers should take place, and not otherwise?

And the same Sacred Congregation, after hearing the report of the Secretary and the opinion of another of the Masters of the Sacred Ceremonies, approved these doubts in writing as follows:

To I. Nothing prevents this in this case.

To II. No.

And thus it was written. On March 31, 1887.

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LAMACEN.

The Reverend Ordinary of the Diocese of Lamacen.

The Reverend Ordinary of the Diocese of Lamacen, explaining that many of the altars in the churches of his diocese are made of a certain type of stone, formed from a sufficiently hard material, some of which contain relics of the saints, while others do not, and that, moreover, sacred stones made of gypsum are also found, even though they are decorated with relics; humbly submitted the following questions to the Sacred Congregation of Rites for a suitable solution:

Question. I. Is the use of sacred stones...

[*Latin ed. p. 64*]

64. QUESTIONS. I. Question II. In churches lacking sacred stones containing relics, where a choir is present, can the Office be omitted? Question II. Can the Office, during the season of Lent, be recited before the sacred stones and schist, on the Feast of Saint Joseph or other Saints, and can Vespers be sung formally? Question III. Can sacred stones containing relics of the Saints, made of gypsum, be retained after the meal, or after the sacred stones and relics of the Saints, to foster the devotion of the people? Question III. Regarding the commemoration of the Sacred Cross, which is recited during the Office, can it be recited when the votive Office of the Passion is being celebrated, especially when the Office is celebrated with mature deliberation, in accordance with the will of the Holy See? Question IV. Is a priest permitted to celebrate a votive Mass, reading or singing the Office, in response to the votive Office, which has recently been granted to the entire Church, and is he obliged to use the Mass whose Introit is "Gaudens gaudebo"?

The Holy Congregation for Sacred Rites answered as follows:

I. No.

II. Yes.

III. No.

And thus they wrote. On April 29, 1887.

The same Holy Congregation, in response to the report of the undersigned Secretary, and to the carefully considered request of another, regarding Apostolic Ceremonies, decided that the following questions should be submitted to the Sacred Congregation for Sacred Rites for a suitable solution:

I. II. III. No.

Question I. On the sixth day of the week after the Octave of Ascension, when the Office of nine readings is celebrated, as prescribed below, can the votive Office of the Passion be celebrated, especially during the Octave of

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Ascension, which is a feast day?

And thus they wrote. On April 29, 1887.

[*Latin ed. p. 65*]

65 FROM THE HOLY CONGREGATION OF THE COUNCIL OF MILAN. CONCERNING REMOVAL FROM A PARISH. March 23, 1889, and March 29, 1890. Session 21, chapter 6, On Reform. SUMMARY OF THE CASE. By an archiepiscopal decree of September 6, 1882, the priest Joseph Longhi, pastor of the place of Cambiago, was ordered to leave the parish. And this was ordered, so that the evils which seemed to have arisen from his own conduct might be ended, and to avoid greater evils which would be renewed, unless the aforementioned pastor were removed from the parish as soon as possible. Longhi indeed obeyed, and left Cambiago; but shortly afterward, he brought an appeal against the decree before the Holy Congregation. Upon being asked for information and his opinion, the Ordinary, after some time, namely on February 1, 1884, sent a long and detailed letter, in which, after enumerating the disturbances and evils for which the pastor was the cause, he clearly stated that the pastor's removal was necessary and had been requested by the salvation of souls, which is the supreme law, and by the imminent danger of very grave evils, which would undoubtedly have occurred due to the universal and intense aversion with which the parishioners pursued their own pastor. With these matters explained, the Archbishop, expressing the sentiments of his mind, concluded that the only remedy for so many and such grave evils could be achieved through the renunciation of the parish, with a vital pension assigned to the pastor who renounced it. In view of these circumstances, on February 16, 1884, a reply was sent to the same Archbishop, "to proceed according to the legal form for the deposition of the pastor due to the hatred of the people." In order to carry out the aforementioned decree, a tribunal was established in Milan on March 1 of the following year, and on May 13, the testimonies were taken, Act, Volume XXIII, page COLXV.

[*Latin ed. p. 66*]

66. In Milano, the proceedings were initiated. However, when it seemed that the court was proceeding at a slow pace and encountering delays, the parish priest appealed to the Sacred Congregation of the Council. The Archbishop, having been informed of the new complaints against the parish priest, and eager to expedite matters, ordered the completion of the procedural documents. Once these were finalized, on October 2, 1886, a judgment was rendered, the conclusion of which was as follows: "1. It is established that there exists actual animosity of the people of Cambiagi against the aforementioned Reverend Father Longhi, not without his own fault regarding the cause of this animosity; 2. It is established that, due to this animosity of the people, he is neither able nor permitted to reside securely in

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the place of the benefice; 3. Consequently, it is established that he is unsuitable for receiving either the old or a new parish. Therefore, Reverend Father Longhi is hereby declared dismissed, and by this definitive judgment, he is truly dismissed from the parish of Cambiagi, which he previously held; however, he is assigned a pension of five hundred livres." Immediately after this judgment, Father Longhi appealed to the Roman Curia, invoking the protection of his patron. However, a particular controversy arose at that time. For the patron of Father Longhi, having reviewed the procedural acts, considered that the appeal should be limited to certain grievances against the judgment. Therefore, having received letters from his client and his representative in the Milanese court, which seemed to be in agreement with his judgment, he drafted the appeal, asserting that the main issue concerned the malicious animosity of the people; and therefore, the archiepiscopal judgment was unjust; furthermore, because the court had declared his unsuitability for any parish; and also because, in conducting the proceedings, there had been several irregularities. Having presented these matters to the Archbishop, he responded that he was pleased with this, albeit belated, improvement in the situation of Father Longhi; nevertheless, in this form of appeal, he found only a new sign of the parish priest's obstinate and litigious nature. After these events, the same Archbishop, with new letters, requested that, while accepting the judgment, the actions taken by Father Longhi regarding the part that concerned his removal from...

[*Latin ed. p. 67*]

MILAN. 67. In Cambiago, the Curia could proceed to the provision of that parish. However, Longhi, as soon as he learned what was being done, wrote that his patron had misinterpreted his will at the Roman Curia, that he would persist in his appeal from the entire judgment, and that he demanded the restoration to the parish. Therefore, after considering everything presented by the patron Longhi, and after examining the letters which he himself presented in his defense, on May 4, 1888, the S. C. C. decided to reply. "Since, from what has been presented, it is not sufficiently clear that the will of the parish priest was to curtail the action of the appeal, and that he implicitly acquiesced to the judgment in that part which concerns the deprivation of the benefice, there is no basis for the requested visitation (of the parish)," and this should be notified to the Archbishop. Furthermore, it was decreed that the case be placed on file.

SYNOPTIC DISCUSSION: WHAT APPEARS TO FAVOR THE ARCHIEPISCOPAL CURIA.

Fifty witnesses were examined, twelve in the Milanese Curia, and the rest in the very parish of Cambiago, before the delegated judge, the archpriest of Gorgonzola, Pietro Biraghi. Among the witnesses were assistant

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priests in the pastoral care of the parish of Cambiago, several neighboring parish priests, the syndic, and other more prominent citizens of the place, and many more simple farmers and laborers. The parish priest Varieschi of Trezzano, the parish priest Girotti of Gaggiano, Monti and Ronchetto, Prada and Fagnano, and the parish priest Reina of Baggio, who were the first to be heard in the Milanese Curia in the month of May of the year 1884, all spoke against the defendant. The priest Conti, assistant in the parish of Cambiago, the pharmacist Gigada, Carera, Cazzaniga, Passoni, Torricelli, Lonau, Calcinati, workers or landowners, who were examined in the very town in the month of August of the year 1884, testified with one voice, as is stated in the letter of the Archbishop, about the great aversion of the people, about the danger of the return of the parish priest Longhi, about his avarice, and other things, all against the defendant.

[*Latin ed. p. 68*]

68. MILAN. In the following month of September, the priest Longhi was summoned, and a decree of the Sacred Congregation, the statutes of the tribunal, and the commencement of an inquiry were announced to him. Then, in the same month, three other parish priests, Rocco and Basiano, Moioli and Másate, and Comezzoli and Gessate, testified to the avarice of the priest Longhi, to his insatiable ambition, to the universal hatred towards him, and to the danger of his return. In May of 1885, Count Medolago Albani, the magistrate Osnago, the syndic Cambiagi, the merchant Ronchetti, and the gentleman Casanova were present in the court. However, the local syndic and the merchant Ronchetti, who were entirely opposed to the priest Longhi, and in the very same manner as those previously mentioned, Count Medolago Albani and the gentleman Casanova, although not entirely well-disposed towards the parish priest Longhi, but rather his friends and supporters, nevertheless testified to the manner of distributing alms that was not in conformity with the observance that his predecessors had consistently followed, and they accused him of the hatred of the entire population, which his actions had aroused against him, of disputes and disagreements with his colleagues and assistants, and also of avarice, of the vexations inflicted upon the colonists, and they attributed the fact that the people had abstained from attending the Church to his fault. On June 26, 1885, Cambiagi brought in other witnesses, namely Philip Donati, Joseph Ronchi, John Torricelli, Charles Calcinati, Cazzaniga, Ulysses Maderna, Charles Fumagalli, John Maggi, John Brambilla, Vincent Chiesa, and Charles Fumagalli; and all of them spoke of the hatred of the people, of the avarice, of the contentious nature of the parish priest, and of his vexations inflicted upon the colonists and others. On July 31, 1885, in the court of Milan, the foreign vicar of Gorgonzola himself was present, who, as a delegated judge, had taken the depositions of the inhabitants of Cambiagi; and he was formally

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questioned by the judge. However, on December 3, 1885, the parish priest brought a suit against all the witnesses, except for the gentleman Casanova, and promised to convict them of perjury, for the depositions were in the original.

[*Latin ed. p. 69*]

AT MILAN. On the 69th day, they had been informed; he added that the boldness of some malefactors had prevented the people from frequenting the church, and that these very individuals, accused of numerous crimes, subsequently suffered just punishments for their wickedness in prison; that the price of the land had risen fairly, following the example of other citizens of the place, and with the approval of his own Ordinary, who merely recommended moderation and prudence; and that he had done so in order to restore a strict condition of benefit. Finally, on January 5, 1886, he was summoned to present witnesses in his defense. And, obeying the order at the end of that same month, he presented several witnesses, with the same questions to be asked of them; he presented a volume of 57 documents and letters, in order to prove the assertions previously made in his writings; and he repeated the objections, not only against the witnesses, but also against the place where the examinations were being conducted, because there, the freedom to speak the truth was not safe. But the judge not only rejected the objections regarding the witnesses and the place, but also invited the parish priest himself to stand before each witness in the town of Cambiago. Indeed, the parish priest Longhi had reported in previous letters that a few days before, on December 11, 1885, he had gone to Cambiago, accompanied by his friend Casanova, and had been well received by the people who saw him passing by. Furthermore, if he had agreed to go to the town of Cambiago and to stay there peacefully for a few days, it would have been to his advantage to exclude the hatred of the people by that very act. But the priest Longhi persisted in the published objections, and also proposed a new one against the vicarius forane of Gorgonzola, since he, as the judge's delegate in Cambiago, had acted as a witness in Milan. Nevertheless, the judge decided to proceed; and therefore, through his delegate, he ordered the judicial witnesses Cigada, Rolfini, the parish priest of Moioli, the parish priest of Comezzoli, and the coadjutor Conti, to be heard a second time, all of whom confirmed or amplified what had been said previously. This happened in the month of March 1886. And then, the delegate decided that the witnesses presented by Longhi in his defense should be questioned. But Corazza, Aloysius Cereda, and four tenants of the Lord Casanova, namely Colombo, Villa,

[*Latin ed. p. 70*]

70. In Mediolanum, Passoni et Prandi recusarunt testimonium edere. Petrus, decurio (maresciallo dei Carabinieri) Pie-, Ciocchi, recusavit sistere;

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sed tacebant et dicebant: Moronati Eugenius, aedilis ecclesiae Cambiagi; Cereda Philippus, eiusdem olim aedilis; Ioannes Pennuti, coadiutor paroeciae Gorgonzolae; Martinus Fumagalli, custos ecclesiae Cambiagi; Ioannes Prandi et Paulus Mantegazza, villici; nec non Caesar Brambilla, colonus domini Casanova. Sed nec hi parocho Longhi omnino favebant; immo, licet se aestimare dicant sacerdotem Longhi, tamen de mala fama, de avaritia, de odio populi, et de periculo reversionis eius non tacebant. His actis, et cum reus pro novorum testium excussione non instaret, iudex processum clausum renunciavit; et monuit parochi procuratorem acta invisendi copiam ei fieri. Imo paulo post, die 17 Iulii 1886, exemplar ultimarum depositionum (priores enim iam fuerant editae) eidem tradendum curavit, addens, non esse in more positum, ut tum libelli fiscalis, tum informationis Archiepiscopi ad S. Congregationem missae exemplar traderetur. Sed parochus Longhi eiusque procurator institerunt, ut haec omnia sibi panderentur, et insuper ut exemplar quarumdam litterarum sacerdotis Conti, quas ipse in processu confirmaverat, evulgaretur. Renuente sed vero iudice, nova exceptio ex parte rei exhibita fuit. Sed iudex recusationem confirmavit, et terminum ad defensionis constituit. Procurator, reiectis a iudice exceptionibus, defensionis officium dimisit. Rebus sic stantibus iudex diem dicit parocho ad audiendam sententiam; quae tandem lata est die 2 Octobris 1886, ut ab initio enarratum est. Ex hucusque relatis hoc certissime scire licet: sacerdotem Longhi esse ad oppidanis Cambiagi, aut si minus ad maiori eorum parti, adeo invisum, ut sine periculo ad suam ecclesiam redire non possit, et eo minus cum utilitate pastorali ministerio fungi. In hoc omnes testes, ipsi quidem qui parocho maxime favebant,

[*Latin ed. p. 71*]

MILAN. Seventy-one [persons] are entirely in agreement. It may indeed be debated whether this [situation] is the fault of the parish priest, or not; whether the hatred with which the people of Cambiagi pursue their pastor is justified, or rather, whether it is the hatred of a wicked people; but the aversion of the people, the danger of the parish priest's return, and the impossibility of his ministry in his church, appear to be established. In this situation, his removal from the parish is just and necessary, and is approved by canonical law. For it is well known that the title of "hatred of a wicked people" is sufficient for the removal of a parish priest. Cf. Zamboni, vol. 4, Concilia Sacra, C. v. Parochus § 14, regarding removal and deprivation; Bizzarri, collect, ad Alben, super remot. parochi populo invisi. The reason is because the common good must be preferred to the private good; Canon 6, c. 7, q. 1: "for the benefit of many must be preferred to the benefit or will of one." Therefore, the controversial opinion concerning the part that sanctioned the removal of the priest Longhi from the parish of Cambiagi, seems to be based on a canonical title. Perhaps an even greater reason

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supports the part that the same priest most vehemently opposed, namely, that the hatred of the people was not without the fault of the parish priest, and that this proves his unsuitability for either the old or the new parish. Witnesses who were present in Cambiagi have recounted several facts that reveal the priest Longhi's pride, avarice, and imprudence. These include his insatiable desire for power and the subsequent, continuous disputes he had with the parishioners; his harassment of his tenants, and even of other parishioners, whom he sometimes sought to use for his own purposes or to borrow their horses; his pursuit of avarice, so that the parishioners were forced to resort to gifts and offerings in order to obtain the services that were due to them from him, while he, on the other hand, increased the burdens on the tenants and drew excessive profits from the pious works that he administered; his indecent and sometimes lascivious manner of preaching in the church: all of these things are testified to by all the witnesses against the priest Longhi; nor do his friends sufficiently excuse or defend him.

WHAT THE PARISH PRIEST LONGHI SEEMS TO FEAR. Two things...

[*Latin ed. p. 72*]

72. In Mediolanum, le patron, à son tour, présente les arguments suivants : 1. des exceptions contre la forme du jugement ; 2. des documents extrajudiciaires plus nombreux qui lui sont favorables. Concernant la forme du jugement, il fait valoir qu'elle est irrégulière, et par conséquent, le jugement rendu par le tribunal n'a aucune valeur, citant Pirhing, *lib. 2 Decret*, tit. 26, can. 3, n. 417, qui dit : « Si l'ordre juridique n'est pas respecté dans le procès, le jugement est nul. » Il affirme que l'ordre du jugement n'est pas respecté si une copie de l'acte d'accusation n'est pas présentée à l'accusé, si les témoins ne sont pas interrogés dans un lieu sûr, et si, enfin, celui qui est juge est lui-même témoin. Cependant, il estime que la nullité, l'injustice et la fausseté de la sentence litigieuse sont surtout démontrées par certains documents, dont voici un résumé : 1. Le prêtre Longhi reçoit des éloges de personnes d'autres lieux et pour divers services. 2. Il affirme que certains témoins qui lui sont hostiles ne méritent aucune crédibilité, car ils ont commis des actes honteux ou criminels : et il dit que Prandoni, Conti, ses assistants, et le prêtre Comezzoli, appartiennent à cette catégorie. 3. Le décurion Velit, Picciocchi, témoigne que le peuple de Cambiago est donné à des séditions agraires et est turbulent, et le prêtre Fontana confirme que Cambiago est un mauvais village, ainsi que le fait le curé Origo. 4. Le curé Morelli et le curé Sesia ajoutent que les difficultés du prêtre Longhi sont dues à certains individus, récemment condamnés pour des actes infâmes. 5. De plus, le décurion Picciocchi, le prêtre Fontana, le curé Morelli, le curé Origo, et le curé Sesia déclarent que le prêtre Longhi est innocent. 6. Enfin, le curé Longhi affirme que le défaut de messes, qui a causé l'indignation du peuple, ne lui est pas imputable, mais plutôt au tribunal ; et qu'il était nécessaire de dissoudre la congrégation des filles de

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la Bienheureuse Vierge Marie, ce qui a également déplu ; et qu'il a toujours été habitué à traiter ses assistants avec beaucoup d'humanité.

[*Latin ed. p. 73*]

MEDIO-LANENSE. 73. Verily, all these things are extra-judicial, and therefore, it was deemed necessary to determine what weight they should have, and whether they are sufficient to moderate the sentence in that part in which the hatred of the people is attributed to the guilt of the priest Longhi, and whether, for this reason, he is deemed incapable and declared unfit by the court, either to govern the old parish or to obtain any new one. Therefore, after all things had been considered, it was proposed to examine the following question: Whether the sentence of the archiepiscopal court should be confirmed or annulled in this case.

RESOLUTION. The Holy Congregation of the Council, having been convened again for this matter, decided on May 23, 1889, to respond: "The sentence should be confirmed, with the reservation of a pension of 500 florins."

PROCEEDINGS OF THE CASE. With this rescript issued, the priest Longhi obtained a new hearing, and his advocate, whom he had chosen, proposed several things in order to obtain the annulment of the archiepiscopal sentence in Milan and the restoration to the parish of Cambiagi. Indeed, the advocate, after a lengthy narration of the facts and with several documents inserted there in favor of his client, primarily argued that his client, the priest Longhi, had truly suffered a deprivation, since, by letters from the Archbishop, he was ordered to leave the parish before any legal proceedings. For, it is a deprivation whenever someone is "deprived of his benefits without manifest cause and reasonable grounds." (Cap. 7 de re spol., and S. C. C. in several decisions, and especially in the most recent one, Pharen. Reintegrationis, May 14, 1889, in which it was decreed that a parish priest, having been deprived of his parish by a simple letter from the Bishop, should be granted reintegration "with restitution of fruits and emoluments in a suitable sum," to be determined by the Archbishop in a just and equitable manner.") Since, however, the one who has been deprived must first be restored, and can only be legally deprived after restitution has been made; hence, it follows that the parish priest Longhi should be restored to the parish before he can be legally deprived.

[*Latin ed. p. 74*]

74. In Mediolanum, [the process] was protracted; and it was not fitting that it should be subjected to the same procedure and that [the accused] should be condemned after he had already been removed from his parish and had undergone punishment. And this is the first flaw by which the Mediolanensis process is tainted; and to this is added another fault, no less serious, which, according to the opinion of some, causes the instruction

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of the process to suffer from a substantial defect. To demonstrate this, it is noted that, from the very beginning of this process, the procurator for the priest Longhi requested that three things be communicated to him: namely, the accusatory document by which the trial was instituted, the individual denunciations which had given rise to that document, and finally, the archiepiscopal report, which, according to the decree of the Sacred Congregation of the Council, had provoked the decision to proceed to the deposition of the parish priest due to the hatred of the people. Furthermore, the presentation and communication of the accusatory document to the accused could not be denied. For, as Bouix De iudicio, volume 2, page 5, states, "The accusation must be presented in writing," and according to a certain rigorous canon, "so that if any of these are omitted, the process will be null, and the accused must be absolved." Reinenstuel, title 1, book 5, Decree number 94. Therefore, it was of the utmost importance for the introductory document of the cause to be acknowledged, not only in order to judge its value, but also in order to know the accusations and to prepare a defense. Indeed, C. De Luca, De iudicio, discourse 8, number 2, states: "Moreover, those things which are established in law still subsist today concerning the declaration of the petition," namely, that "whenever the accused is present and requests it, if the petition is so obscure that the aforementioned effect results, that the accused cannot deliberate whether he wishes to yield or to contend." And in the Instruction, issued by the Most Sacred Congregation of the Holy Office and the Religious Congregation on June 11, 1880, for the instruction of criminal causes, it is ordered "that in the summons, if prudence does not forbid it, the accusations brought against him should be fully explained to the accused, so that he may prepare to answer." But, on the contrary, the Mediolanensis tribunal repeatedly responded to the procurator for the priest Longhi that it could not provide a copy of the accusatory document and the archiepiscopal report, and that if the process wished to take cognizance of these matters, it should go to the court. Therefore, according to the defender, it is clear that the form of the process was substantially violated.

[*Latin ed. p. 75*]

MILAN. 75 It is not sufficient: but before the judge proceeds to deprivation, he must warn the beneficiary three times. Thus, indeed, the Holy Rota in Cracow, in the case of *Parochialis* of June 22, 1767, in the matter of Guerra, declared: "The 'trina' warning must precede the sentence of deprivation, whether it concerns 'simple incontinence' or 'qualified incontinence'... and it always emphasizes the necessity of observing the 'trina' warning, even if the crimes that provide the cause for deprivation are abundantly proven." This, too, has been taught and maintained by the Holy Office in several cases, as can be seen in the case of *S. Severi* of April 4, 1778; in Terracina, of June 2, 1860, and especially in the case of *Remo-

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tionis a paroecia* in Paris, of August 27, 1764. In the present case, however, the 'trina' warning was lacking. Furthermore, the odium of the people, to which the sentence of deprivation is attached, is not considered among the canonical causes for deprivation of a benefice; but rather, a grave and proven crime, or obstinacy in sins, is required, as De Luca notes in *De benef.*, summary, § 29, n. 222; the Rota in decision 711, n. 6, *car. Dunoret*, and others, state this widely. However, these crimes are not present in the case of the priest Longhi. Indeed, there does not even exist such odium as would, at least prudently, warrant the removal of a parish priest. And here, the defender adds more testimonies in defense of his client, among which the written attestation of the parish priest Origo deserves the first place, to which the parish priest Sesia and several other trustworthy witnesses concur, all of whom commend and praise the actions of the priest Longhi. It is irrelevant that many testify to the contrary. For, in the first place, many of these have given their testimony based on hearsay and reputation, and not on their own knowledge; therefore, their authority must be lessened, according to chapter 47 on testimonies. Furthermore, the defender argues that some are singular in their singularity, as, for example, in the accusation of partiality and injustice in the dispensation of subsidies, and the statement of one is nullified by the statement of another. Moreover, others relate improbable things, as seems to have happened with the coadjutor Conti, when he asserted that the parish priest Longhi...

[*Latin ed. p. 76*]

76. The [authorities] of Mediolanensis claim that [the priest] is a liar and a thief; whereas, the best accounts of his character and honesty are those given by many others. He adds that, from the testimonies presented, more people should have been excluded from giving testimony, such as the priests Conti, Prandoni, Rolfìni, and the parish priest Comezzoli, because they are rivals and adversaries of the priest Longhi; and therefore, according to I. 3 ff. and 17 C. De testibus, and chapter 1 De exceptionibus, they ought to be excluded. However, even granting this, the [authorities] maintain that the alleged hatred truly exists; but four witnesses affirm that it is, in fact, partial. Furthermore, they contend that it was unjust, since the parish priest Longhi gave no reason, and provided no motive for the people to hate him. And this is manifestly proven, not only from the testimony of many witnesses who state that the parish priest Longhi fulfilled the duties of a good pastor, but also from the records of the Curia itself, which never found anything in the priest Longhi that needed to be corrected or reprimanded. "Moreover," the [authorities] state, "if the hatred of the parishioners is unjust, the parish priest should not be deprived of his parish, although it is necessary that he be removed, namely, with an exchange of parishes of equivalent income." Thus, the Sacred Congregation [Consilium] in Spoletana Parochialis, January 19, 1777; and it decreed this

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precisely in Limburg, Parochialis, July 22, and December 19, 1857, and in Herbipolis, Parochialis, December 22, 1860. But, on the contrary, the Curia of Mediolanensis not only deprived the priest Longhi of his parish, but also declared him unfit for any other assignment; and therefore, according to the [client's] representative, there is a further reason to reject this judgment. Finally, in the last part of his argument, the representative seeks to exonerate his client from the accusations. And, above all, he contends that it can be gathered from the testimony of five witnesses that he is not of a turbulent or litigious nature. And that he is not tainted by the vice of avarice, this is confirmed by the testimonies of many who assert that the priest Longhi...

[*Latin ed. p. 77*]

MILAN. He had frequently performed seventy-seven pious works, either gratuitously or at his own expense; indeed, he had improved the condition of the parochial property through his own expenditures. That the patron did not oppress the tenants is demonstrated not only by the testimony of numerous witnesses, but also by records collected from the treasury, pertaining to the benefits granted to the tenants by the parish of Longhi, under the administration of the parish priest Longhi. Furthermore, it is clearly demonstrated that the absence of the parish priest Longhi on certain feast days, and the lack of a substitute when an assistant was absent, is not imputable to him, from letters in which he sought to invite another priest to celebrate Mass. From all of this, the advocate concludes that the accusations made against his client are either false or exaggerated; and he argues that the people's aversion, given what has transpired, has ceased, so much so that the centurion Picciocchi declared that the parishioners would gladly accept the parish priest Longhi.

WHAT FAVORS THE COURT. On the other hand, it has been observed, primarily, that in this new presentation of the case, the parish priest Longhi has produced only a few extrajudicial documents in the final summary, which are largely laudatory of his previous life; and he has presented only one or two new documents (although even these are extrajudicial), in order to excuse himself from the accusations and the hatred of the people. Therefore, to merit a reversal of the previous decision and a restoration to the benefice, it is necessary to insist only on the documents initially presented, and to expect nothing more than a new and different evaluation of them. However, even setting aside this prejudicial argument, and considering the matter itself, as required by the concession granted by the Sacred Congregation, it must be considered that the existence of a very serious hatred against the parish priest Longhi is legally certain. For fifty or more witnesses appeared in court, selected from all groups of people, some summoned by official order, and some proposed by Longhi himself.

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But of these,

[*Latin ed. p. 78*]

78. In Mediolanum, quidem, [the] parish priest Longhi [is] more favorably regarded by some, such as Count Medolago of Albani and Dom Casanova, who favor parish priest Longhi, either out of piety or friendship. These are, indeed, the principal and wealthy men of the place, who frequently come to this place, and who, being fully aware of the facts, and who, moreover, cannot be considered adherents of popular factions, have given most serious testimony regarding the hatred of the people towards parish priest Longhi, and regarding the dangers of his return. Moreover, from the very witnesses brought forward by Longhi himself, such as the priest Pennuti, the sacristan Pennuti, John Prandi, and Caesar Brambilla, and others, these themselves describe, in strong terms, the popular aversion towards parish priest Longhi. Nor should it be omitted that six of the witnesses presented by Longhi in his favor refused to give testimony; which certainly does not argue in favor of the parish priest. Let the testimonies of the Decurio, Vicenzo Picciocchi, or of the parish priest Origo, or perhaps of others, be opposed. For, in the first place, these are extrajudicial. Indeed, the Decurio, although invited, refused to appear in court, and to confirm his assertions under oath; therefore, his words, being unsworn, and given, I know not with what intention and purpose, do not seem worthy of much consideration, nor should they be preferred to certain, judicial, and sworn depositions. The same can be said of the apologetic letter of the parish priest Origo, in which, although (being a Count, a guest, and frequently a fellow diner of parish priest Longhi), he defends his friend, and accuses a certain faction of hostility and malice towards him, and proclaims him innocent; nevertheless, he could not deny that public popular hatred still exists. And although parish priest Origo and some others, who defend the cause of the priest Longhi, call this popular hatred gratuitous, and attribute it to a conspiracy of certain powerful and factious individuals, nevertheless, their assertions are not consistent with the sworn and judicial depositions; from which, rather, it appears that parish priest Longhi has not given, from the beginning, even one, or a slight, reason for such great aversion.

[*Latin ed. p. 79*]

MILAN. 79 He is, moreover, accused above all of avarice, which was the cause, first, that he excessively increased the burdens and labors imposed upon his parochial tenants; secondly, that he frequently postponed spiritual ministrations until he received gifts and offerings; thirdly, that he did not always observe justice in the administration and distribution of charitable funds; and finally, that he stubbornly refused to accept small and insignificant contributions, as happened with the sodality of the Most Holy Sacrament. Furthermore, he is accused of being of such a haughty and liti-

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gious nature, that not only did he often treat the townspeople harshly and arrogantly, but moreover, he had continuous and serious disagreements with the building council, with the municipal council, with the sodality of the Most Holy Sacrament of which he was president, and even with the congregation of the Daughters of the B.V.M. He is also accused of having such a habit of lying that the boys in the streets were accustomed to reproach each other with the words: "You are more of a liar than the curate." Finally, it is asserted that he sometimes used to speak so freely in the sacred sermons on certain licentious and difficult matters, that his words caused scandal and offense to many, especially to young girls and boys. These accusations are not merely derived from the testimonies of the opposing parish priests, which are presented in the proceedings; but also from the witnesses whom Longhi himself presented, witnesses who were his friends, and therefore are all the more credible. Moreover, two such witnesses testify, among other things, that they know nothing, or have heard nothing, about certain matters, and these matters are neither few nor trivial, and the more credible they are because they come from people who are favorably disposed. John Prandi, one of the witnesses presented by parish priest Longhi, although he claims to be his supporter, at least states that his son was not admitted to Holy Communion until after he had offered certain gifts and offerings to the parish priest. On the other hand, without any ambiguity, the witness Mantegazza declares him to be a man of bad character, an oppressor of the farmers, and one who is disliked by the townspeople. But these and other matters should be considered in the archiepiscopal report, which, although it merely states the extent and nature of the people's hatred, and to whom...

[*Latin ed. p. 80*]

80. MEDIOLANUM. Although it may seem that the excesses and audacity of certain individuals have led to this situation, it is nonetheless implicitly evident that the parish priest, from the very beginning, gave grave and multiple reasons for such aversion. It cannot be supposed that the parish and the people, not only by the Archbishop but also by the parish priest himself, the supporter of the priest Longhi, through good intentions, would nevertheless, without any cause and so grievously, have revolted against their parish priest, and suddenly become so hostile. Indeed, it is easily believed that this could not have happened to an innocent parish priest. Furthermore, to attribute the cause of so many evils to a small faction, as some attempt to do, would be erroneous and false; for in truth, it is not one or two individuals, but the entire people, conspiring against the parish priest, who are found to be at fault. Nor is it fitting to call upon the parish priest's past life, as some of his defenders contend, to excuse his actions; for it often happens that those who conduct themselves well in minor offices become corrupt in greater ones. Moreover, according to the facts, the conduct of the priest Longhi, even in his previous places

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and duties, was not entirely free from censure. Therefore, the true cause of such great aversion seems to be attributable to the priest Longhi himself: and the hatred, of whose existence, extent, and gravity one cannot legally doubt, is to be attributed not to the malice of the people, but rather to the fault, avarice, arrogance, and other defects of the parish priest himself. Furthermore, if, in addition to all this, the Archbishop had not been able, after a long and protracted process and with such complete and certain evidence of the facts, to remove such a culpable priest from the parish, it would seem that the authorities are lacking, – those who are charged with providing for the needs of their Diocese; and that the permanence of parish priests, which is established not so that priests may provide for themselves, but rather so that they may devote themselves wholeheartedly to the care of the flock without anxiety or disturbance, a provision introduced for the good of souls, is instead leading to ruin and destruction, which cannot be tolerated, nor has ever been sanctioned by canonical jurisprudence. With all these things stated on both sides, the purpose to be addressed is the following.

[*Latin ed. p. 81*]

81. MILAN. The question of whether to maintain or rescind a decision in a particular case. RESOLUTION. The Sacred Congregation of the Council, after deliberation, on March 29, 1890, decided: "In the decisions already made, and further."

MOLINS. MARRIAGE. March 29, 1890. Session 24, Chapter 1, Concerning Appeals. SUMMARY OF THE FACTS. On February 7, 1882, Charles Paitot, aged 25 years, and Angela Druelle, aged 18 years, both from the diocese of Moulins, entered into marriage with each other according to the rites of Trent, after having, according to the law of France, performed the civil formalities, and immediately began to live together as husband and wife in the paternal home of Paitot; and they maintained this way of life until the month of September of the same year. However, in the month of September of that same year, Angela, with the consent of her husband, requested to return to her father's house, and remained there for approximately two months; then, upon receiving news of the death of Charles' grandmother, she returned to her husband's home on December 15th, which day she subsequently left of her own accord, being, according to Angela and several eyewitnesses, contemptuously ejected twice, if one is to believe Charles. But did she return there, and will she ever return? Now she appeals to the judgment of the Church, presenting a petition, first to the Bishop of Moulins, and then to the Holy See, for the dissolution of her most unhappy marriage; and she has pursued the matter in the canonical form, as has already been stated, until the judgment was pronounced by the Judge, which decreed: 1. That the marriage was not consummated in this case. 2. That there are very serious reasons for requesting a dispensation

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from the marriage, which is both valid and not consummated. Against this judgment, the Defender of the Bond appealed. *Acta, Vol. XXIII, page OOLXVI, 6*.

[*Latin ed. p. 82*]

82 MOULINS. She has been washed, and the case has been brought before the Sacred Congregation, which earnestly implores that it deign to pronounce a definitive judgment. It will certainly be helpful to have before one's eyes the more recent events of this marriage, namely those that preceded it and those that followed, for from these one can understand at least the extreme distress of Angela, which completely excludes any hope of reconciliation. And it should be noted that the Bishop of Moulins, in his response to the Sacred Congregation, has endeavored to restore peace and harmony between the betrothed, but in vain, which is something that cannot fail to amaze anyone who has considered the sequence of events. It is a lamentable story, but not an uncommon one, especially in those regions where a less than commendable custom gives parents more power and influence in the marriages of their daughters. We see in this case a beautiful girl, 18 years old, who, from her earliest childhood, has been carefully educated in a convent under the care of nuns, in religion and in the sciences, and who has been given in marriage by her parents to a man who is feeble, unrefined, and rustic, who, because of his weakness, is completely subject to the authority of his parents, who are even more rude and unrefined. He was wealthy: and this, it was presented to Angela by her parents and the parish priest, was to excuse him as being mild, timid, and of good morals. For Charles could not find a wife in the region where he was commonly called stupid and uncultured; where it was whispered that he was unfit for marriage. Indeed, he was not impotent, as will later appear, and these statements are to be understood in such a way as to show a certain contempt conceived because of his evident weakness. The marriage offered horrified the girl because of his feeble appearance, and she also refused it with tears; but in vain. The father insists, the mother insists, with importunate prayers and threats. The father asserted that he would give his life if the marriage did not take place; so that, with one voice, all the witnesses - and there are many, among them the family doctor - proclaim that Angela truly yielded to the moral force of her parents. Finally, the girl, overcome by the prayers of her parents and believing in the recommendation of the parish priest, gave her consent, and began a life of marriage.

[*Latin ed. p. 83*]

In MOLINEN, the marriage between Charles and Angela began in the husband's parental home. However, she soon discovered the miserable fate into which she had been placed. She had her father-in-law and mother-in-law as companions – her husband was a loathsome sodomite, her home

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was hell, as she herself lamented. Indeed, from the very beginning of their marriage, Charles revealed his intentions to his wife, confessing that he did not experience pleasure in intercourse with women, but only with men; and that he only wished to know her as a male, and that he did not intend to have children with her. The young woman was horrified, and although she was ignorant of the matter of marriage, she should nevertheless have suspected that something forbidden was being proposed to her, and she therefore strove with all her might to resist it. Hence, quarrels and discord arose. The miserable wife became increasingly sad from day to day, and soon she was subjected to atrocious insults: her father-in-law, mother-in-law, and Charles himself called her a wretch, a harlot, a prostitute, and worthy of being a mime. She was also falsely reproached for having had affairs with soldiers from Vichiaci, and, in an unheard-of way, for having been taken to Paris by her father to be given in marriage. Her mother-in-law said, "If Angela bears children, I will not love them, because they will not be the offspring of Charles"; and Charles said, "Whatever my parents say is true; I say the same." What is surprising is that, fifteen days after the marriage, she went to stay with a friend, saying: "I have been deceived in everything; I am now being tormented by my husband and his parents." And after three months, she confided in the most respected widow, Madame Cosnier, with whom she had been friends since childhood, that Charles only wanted to act in a vile and unnatural manner. It is not surprising that, having returned to her parents' home in November, she had already considered asking for a separation; but she was dissuaded by the parish priest, Pannetier, to whom she had revealed this; who, in his opinion, exonerated Angela from all blame and severely reprimanded the Paitot family for their behavior. Therefore, Angela, having reflected better on the matter, and seizing the opportunity of the death of her husband's grandmother, returned to Cantilia, to her father, on December 15th. Scarcely having entered the house, harsh words and insults began, and after only one night, Charles expelled the miserable woman from the home, using the force of the law and public force.

[*Latin ed. p. 84*]

84. MOLINEN. If she does not immediately depart, she will be ruined. Therefore, Angelmann and her father left, and shortly thereafter, the unhappy history of the marriage was concluded by the father's death from grief; for he could never forgive himself for having led his most beloved daughter into such misfortune. Synopsis of the Dispute. From this narrative, one can gather quite serious arguments in favor of the actress, and no one will be surprised that she appealed to the Holy See for a declaration of nullity, out of fear; and, as long as the bond remains, for a dispensation from the marriage, which is considered valid but not consummated. This petition, although flawed insofar as it concerns the declaration of nullity,

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is judged to be valid and worthy of being heard favorably, insofar as it requests a dispensation by grace from the Holy Father. Now, the petition must be considered with regard to its individual parts; and first, the alleged fear, which can be easily dismissed. There is no doubt that Angelmann's parents exerted a certain, and even considerable, influence and coercion, in order to induce the daughter to enter into this marriage: this is evident from the testimonies of all the witnesses, and of the mother of Angelmann herself. However, from these testimonies, no one proves, nor even affirms, any particular acts of cruelty or threats, except for the father's statement that he would give his own life. Unreasonable pleas undoubtedly increase reverential fear, just as they can cause it, and this fear can be an impediment; but when it comes to a marriage, contracted in the Tridentine form, serious fear is difficult to prove, and if it is not serious, the cause itself fails. In the present case, the evidence is insufficient for this part, and the matter remains doubtful. Therefore, it is better for the actress to insist on a dispensation from the marriage, which is considered valid but not consummated, on the grounds that the fear, which is considered insufficient to declare the marriage null, is sufficient to obtain a dispensation. Indeed, this is confirmed by this Sacred Congregation, in the Braga Dispensation of Marriages, January 23, 1823. OPINION OF THE THEOLOGIAN. FROM...

[*Latin ed. p. 85*]

DIVORCES. It is now admitted that dispensations can be granted in cases of unconsummated marriage by all. The foundation of this doctrine appears to be found in St. Thomas in the Supplement, Question 61, article 2, ad 1. "Marriage, before carnal union, signifies that conjunction which is of Christ to the soul through grace, which is dissolved by a contrary spiritual disposition, namely, by mortal sin; but after carnal union, it signifies the conjunction of Christ to the Church, as far as the assumption of human nature into the unity of the person, which is entirely indivisible." And in article 2, "Before carnal union, the body of one is not entirely transferred under the power of the other... but by the union, this said transfer is completed." And in truth, the bond of marriage can only be dissolved by the will of one of the spouses wishing to enter into a more perfect state; why then should it not be dissolved by the Supreme Pastor of the Church, so that a sheep may be rescued from the danger of eternal ruin? Undoubtedly, this is due to the sanctity of the Sacrament, so that the union of marriage should never be broken except for very serious reasons; but when such reasons exist which affect both eternal and temporal happiness, surely there is room for the piety and mercy of the Holy Mother Church. And so it happens: the Church, after sufficient and proven reasons have been presented, is accustomed to benignly grant the requested dispensation. What are the sufficient reasons? This is best learned from the practice of the Sacred Congregation, namely: the very bad behavior of the husband; the just aversion

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of the wife; and no hope of reconciliation. Therefore, if a woman can prove 1. that the marriage was not consummated; 2. the existence of sufficient reasons, which the Holy Father rightly demands for a dispensation from her marriage – which, in my opinion, is sufficiently and abundantly the case here. The lack of consummation is proven 1. by the virginity of the woman. But it is known that Angela was a virgin after seven months of cohabitation. Therefore, it is certain that this marriage was not consummated. The virginity is proven a) by the testimony of two doctors, under oath, after an examination.

[*Latin ed. p. 86*]

86. At Karlova, concerning the alleged consummation of the marriage of Angela, this was ascertained by the testimony of two midwives, who, in the presence of the examining matron, inspected Angela's body for the same purpose, as prescribed in the Constitution "Dei miseratione" and the Instructions of the Sacred Congregation of 1840, section 2, from the confession of Charles himself before the civil judge; indeed, he himself affirms this. – The arguments are so clear and evident in favor of the non-consummation that the Defender of the Bond does not dare to openly refute them! However, he attempts to cast doubt on the conclusion based on another argument, namely, by citing the opinion of certain physicians, who, as he claims, teach that it is impossible to prove, by examining the genitals of a woman, without also examining the body of the man, that she is a virgin, since in some women the tenacity of the hymen is such that it is not torn by marital intercourse. However, this objection is invalid: 1. because in these women, the consistency of the hymen is certainly abnormal, which would undoubtedly have been apparent to the midwives, or at least to the physicians, in this case; whereas, on the contrary, all remain silent about any abnormality or monstrosity in Angela; 2. because the aforementioned doctrine, if indeed it can be called doctrine, rests on certain extraordinary and very rare cases, perhaps five or fewer in the entire history of legal medicine concerning women, in which pregnant women have been found, without the hymen being noticeably ruptured; but a completely unusual fact does not provide a basis for judgments that should proceed based on what commonly occurs; and in fact, they do. 3. Should we say that all dispensations and declarations previously granted in similar cases have been illegitimate and invalid? The fact upon which this theory rests is already known from antiquity, as can be seen from Sánchez De Matrimonio, book 7, title 113, paragraph 10, but nevertheless, it does not change the process prescribed by law in this matter. Therefore, we must adhere to the old and common doctrine, which, moreover, is still taught today by the most learned physicians, namely, that the physical signs of bodily integrity are absolutely incompatible with carnal intercourse, especially with the use of marriage; therefore, the objection collapses, and it is established that the

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marriage was not consummated.

[*Latin ed. p. 87*]

MOLINEN. 87. We now come to the reasons alleged by the petitioner for the dispensation. First of all, the defender of the marriage presents many arguments against the alleged coercion by Angela, all of which are indeed good and would have great value if the question concerned nullity. I have already stated that there is no proof of coercion due to fear; but it is abundantly demonstrated by the witnesses cited by the defender himself that the girl was deceived concerning the qualities of the bridegroom, and it is also abundantly proven that this young woman, being 18 years of age, was subjected by her parents to such insistent pressure, through importunate prayers, that it is impossible that her freedom in contracting the marriage was not seriously diminished. But a diminished freedom, as is well known, is admitted in practice by the Sacred Congregation of Councils among the causes for dispensation. The second reason is based on the most deplorable morals of the husband, who intended to abuse his wife in a sodomitical manner, a most detestable act, which is certain to generate the greatest aversion in the heart of a virtuous and modest woman – besides constituting a grave danger of sin. – Against this accusation, the defender of the marriage argues that it is based on the testimony of only one person, Angela. But the testimony of even one person must be considered true in this matter, which does not admit of many witnesses, if that witness is truthful, and especially if the assertions are confirmed by strong external evidence. Indeed, Angela is spoken of by all as a good and sincere person; even Mr. Pannetier praises her and pities "her undeserved misfortune." The evidence consists of communications made to Mr. Barillet 15 days after the marriage, stating "that she had been deceived in everything," and to Mrs. Cosnees, after three months, "that Charles always acted in an unnatural manner." What do these signify? Must we believe that a girl of 18 years of age, educated from childhood among nuns, has progressed so far in obscenity and wickedness that she devised such abominable things and unjustly imputed them to her innocent husband? This, I say, is incredible; and yet, it must be believed, unless her testimony is accepted as true. – Another piece of evidence is the lack of consummation of the marriage after seven months. – It seems certain that Charles was not at all impotent. – Certainly.

[*Latin ed. p. 88*]

88 MOLINEN. Furthermore, nothing monstrous was found in Angelmann, who moreover swore that she had not placed any obstacle to the consummation of the marriage, and she is contradicted only by Charles. Therefore, who will believe that he was unable to consummate the marriage, unless he wished to abstain out of malice and to indulge only in illicit

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acts, as he has assigned to his wife? And it must be noted here that Charles constantly refused to appear before the ecclesiastical judge, although he is considered good and pious by Mr. Pannetier; the summonses, legally issued, are useless, as are the persuasions of friends. Why? He says that he wishes to remain passive – but this is a futile and absurd response, when it concerns his own affairs and his honor most of all. It is better to say that the man, devoted to an unnatural vice, feared the questions of the Judge and wished to avoid the danger of either perjury or the loss of his reputation. And this is further confirmed by the incoherence of his assertions regarding the entire matter of the non-consummation. He says that it happened through the fault of Angelmann; but at first, he was completely silent about this fault, namely, in the document presented to the civil judge in April 1883 – in which he stated that his wife had abandoned the home and had thus failed in her conjugal duties. Later, he accused Angelmann of having a contrary will, and as an argument, he cited the "application of fomentations," an argument which is clearly refuted by the testimony of Catherine Druelle, from which it appears that these fomentations were applied: 1. only to the stomach; 2. six or seven times; 3. against the will of Angelmann, who was distressed by them. Very recently, he fabricated a story, claiming that by abstaining, he had obeyed the will of his father-in-law, who had warned him to spare his daughter. The father has been dead for five years, so he cannot investigate the matter; yet, while the father was still alive, he dared not say such a thing. Given these tergiversations of Charles, and the simple testimony of Angelmann, who from the very beginning of the marriage has stated that the husband did not wish to act in the proper manner, it is not difficult to discern which side the truth lies on. Indeed, considering what is known about the character of Charles, who was born of parents who are related in the second degree of consanguinity, he seems to suffer from that weakness which is not infrequently observed in such offspring, it seems quite probable that Charles's initial response was the true one: that is, that he was unable to consummate the marriage.

[*Latin ed. p. 89*]

MOLINEN. 89. Furthermore, there is another circumstance brought forth from the testimony of others, namely, the parents who completely dominated her. Whatever the truth of this matter, it is clear that Angela was not bound by any law to live with a husband of this sort, and therefore there is a perfectly just reason, from this point of view, for a dispensation. Another reason is found in the insults and contempt with which the unfortunate woman was constantly subjected in the husband's house, both by him and by his parents. Enough has already been said about these matters. They are proven by the testimonies of domestic servants – of certain friends – and of Mr. Pannetier, a witness not particularly favorable to Angela; to which vexations is rightly added the public and insulting

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expulsion from the home, which likewise cannot be denied. Against this, and even the preceding reason, a serious objection can be raised, as she says, arising from a judgment rendered in the civil court. According to this judgment, there seems to be a certain equality between the spouses who are litigating, and that there are reciprocal injuries, both with regard to conjugal duties and with regard to insults. However, if the entire process is carefully read, it will immediately be discovered that the judgment, as far as Angela is concerned, is of little, if any, value. Indeed, the witnesses presented by Angela are those who had her daily conduct before their eyes, namely, Anne Côte, Eugenia Debatisse, and Antonina Bourgne. All unanimously testify that Angela was always full of kindness and courtesy towards Charles, whether in Cantilly or in Vichy; while Charles was "taciturn and jealous," or "contumeliously cursing." Even Mr. Pannetier, a close friend of the Paitot family, confesses that Angela did not find the due respect in the house, and that she was not worthy of any reproach from elsewhere. On the contrary, Charles's witnesses are more "outsiders" than "eyewitnesses." They report and can report only one or the other fact, whether it is based on hearsay, or seen from afar, or misinterpreted. Indeed, Anne Côte, who was summoned by the request of both parties, testified before the civil judge entirely in favor of Angela and against Charles. The only thing alleged is that Angela threw a cup of wine in Charles's face, which is a fabrication and an absurd fabrication.

[*Latin ed. p. 90*]

90. MOLINEN. This is testified to by the testimony of one of those present. Enough has already been said about the non-consummation; it is clear that the fault does not lie with Angela, but with Charles himself. - Therefore, why did the civil judge condemn both of them? Here is the explanation. The president of the court at that time was seeking the office of advisor at the court of appeals, and to obtain this, he needed the support of a relative of Charles. He considered the sentence to be only slightly harmful to Angela, which is what she desired, but very beneficial to himself in the future. In fact, he obtained the position of advisor. I do not know what value this has; but after carefully considering the entire process, I believe that the sentence is clearly contrary to the evidence as far as Angela is concerned, and therefore unjust, and should have no force in an ecclesiastical court. Otherwise, such flagrant injustice is unheard of in these times in France and elsewhere. Another reason for the dispensation is the difficult and quite unique situation of Angela, who remains bound by the civil bond, and at least in the external forum, by the bond of the sacrament, which certainly constitutes a grave danger of incontinence or a new contract. Angela, being twenty-four years old, is orphaned, with an elderly and ailing mother, and has no brothers or sisters, being deprived of all help. The danger is even greater because she is beautiful, lives in

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Vicinaci, a city devoted to luxury and pleasure, and there she runs a tavern. Furthermore, she is strongly urged by many to enter into a new marriage, even for the sake of her health. - All of these things certainly constitute a solid reason for a dispensation. If these are added to the other things established above; namely, the grave error into which the girl and her parents were led - the pressure exerted by the father to marry her to Charles - and the bad character and the vexations inflicted upon her by him, which completely exclude any hope of reconciliation, then the case is clothed in those conditions under which the Most Holy Congregation is usually moved to obtain from the Supreme Pastor of the Church a dispensation in a marriage that is valid but not consummated.

[*Latin ed. p. 91*]

MOULINS. 91. From the foregoing, the Consultor theologian concludes that the opinion of the Court of Moulins should be upheld, and that application should be made to the Most Holy Father for a dispensation from the marriage of Angela Druelle, which is valid but not consummated. OPINION OF THE CANONIST. Before addressing the matter, the Consultor said that three things must necessarily be considered: two concerning extrinsic causes of merit, and one concerning intrinsic causes. Therefore, a) The procedural documents on the part of the husband are entirely lacking in the records. This is because, although he was repeatedly urged, both extrajudicially by his own parish priest, and then twice judicially through summonses, to appear before the ecclesiastical judge, he stubbornly refused to do so, and he did not even wish to designate witnesses who could testify against the claims and allegations made by the plaintiff. But this, as is well known, does not prejudice the plaintiff; for neither the wife is bound for the husband, according to Canon 1 and 3, nor is the cause prejudiced, so that the judge is prevented from rendering a definitive judgment, according to Canon 5, concerning a matter not contested. b) Several things appear in the records that are less accurate in terms of the formalities, so that they rather express a verbal form than a formal process, and furthermore, those things that would confirm authenticity are lacking; for example, the date and year of each hearing are not recorded, nor is there a seal of the Court, etc. These things, indeed, could have been done, and their absence could invalidate the proceedings, as Schmalzgrueber, *loc. cit.*, volume 2, title 22, number 15, and Bouix, *De iudiciis*, volume 1, page 1, chapter 3, question 2, state. Nor is the matter clear concerning the interrogations, for they are not so fully and clearly stated, whether proposed or answered, that they allow one to obtain an absolute and accurate understanding of the facts, and so that the matter may be expeditiously and orderly brought to a solution. c) Finally, both the plaintiff and her advocate in the first instance argue for moral coercion arising from reverential fear, so that they may conclude regarding the nullity of the marriage. It is not doubtful, apart from the

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depositions of the plaintiff herself and of her...

[*Latin ed. p. 92*]

92 MOLINEN. Five other witnesses affirmed that there was some coercion of this kind; but all the strength of this sworn testimony immediately vanishes with the equally sworn testimony of Angela herself. When asked whether, during the actual celebration of the marriage, she intended to submit to all the obligations of the new state, Angela, without hesitation, answered absolutely. To this explicit affirmation, the Judge added: "Have you, from the first day, shared the same room and the same bed with your husband?" Again, Angela affirmed unequivocally. Finally, when asked: "Did you prepare any obstacle to the fulfillment of the marital debt?" she replied: "Absolutely not; I never did." Indeed, it is necessary, or we must be forced to admit, that from the free, full, and complete consent given by Angela during the celebration of the marriage, and afterwards, without any interruption, during the approximately seven months of cohabitation with Charles, she considered and continues to consider her contract valid and firm. Therefore, I reject the entire question concerning moral coercion in this matter. With these premises, I believe it is time to approach the merits of the case more closely, said the consultant, adding that he had rarely encountered a case so similar. It is, indeed, a remarkable case, not only because of the connection through which the conflicting motives are revealed, by which these spouses, with a defiant attitude, accuse each other of the lack of consummation and of the quarrels that occurred during the seven months of their marital cohabitation, bitterly exchanged between themselves; but also because of the reason for which the dispensation is sought. It is not now a question of dissolving a valid marriage, either on the grounds of natural or accidental impotence, or on the grounds of various forms of antipathy, through which, in all cases, the impossibility of perpetual consummation is always stipulated, either necessarily and physically, as in the first cases, or at least morally certainly, as in the others; but, alas, it is a question of dissolving a marriage not consummated due to the infamous and wicked pederasty habitually present in the husband; through which this wicked defiler, contrary to the nature of his wife, committed impious acts of lust.

[*Latin ed. p. 93*]

MOLINËN. 93. Nothing is said concerning the sacrament, nothing concerning the issue [of children], nor is any impediment alleged, and this is stubbornly maintained. From these circumstances, the reason for doubting [the validity of the marriage] becomes apparent: can the marriage of Charles be maintained? For it seems that a condition was imposed by him in contracting the marriage, which is contrary to the essence of this contract, namely, that the object of the same is destroyed, and this is contrary to the

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law as stated in the text [of the canon]. If the conditions mentioned in fin. de condiction. are to be understood as examples for all other conditions that would oppose the substance of the matrimonial contract, as the Abbot and Ancharanus note in n. 2, Alexand. De Nevo in n. 5, and Io. Andreas, Enricus Boich in n. 5, then... But the sworn testimony of Angela, on which the entire doubt rests, although it gains great strength and force from the proven integrity of the same, I do not believe it to be sufficient, nor would I strive to maintain it, since it is not established that Charles had this intention beforehand in relation to the marriage, as declared by the S. C. C. while the Most Holy Pope Benedict XIV was still in minor orders, in Ulixiponen, in the West, concerning which there was a heated dispute on March 16, 1720, July 31, 1723, and finally on July 18, 1724. Quest. Canonicae 148, 386. Therefore, in order to bring the matter to a brief and orderly conclusion, he proposed to divide the entire discussion into two parts: one concerning the consummation of the marriage, the other concerning the serious causes that concur in requesting an apostolic dispensation. And with regard to the first part, he said that three things are well known by law, which are required for proof of the lack of consummation in this case: namely, the sworn testimony of a) the woman, b) a witness, and c) the appearance of the girl's body. How much weight should be given to the sworn testimony of the woman in such cases is widely taken from the practice already established with the S. Penitentiaria, as reported by Corradus Prax. dispens. apostolici L 8, c. 7, n. 36, which, from that year [1681] onwards, in the forum of conscience, granted dispensations solely through that oath, concerning marriages as in this case; but subsequently...

[*Latin ed. p. 94*]

94. MOLINEN. Pope Innocent XII, through a perpetual decree, cautioned against this practice. It is evident that this assessment derives its full force from several Decrees, among which are: *c. Laudabilem 5* concerning frigidity and improper acts; *c. Continebatur 6* concerning the marriage of the impuberal; *c. Proposuisti 4* concerning proof, etc., all of which are founded upon the presumption of the integrity of conscience. *c. Mulier 34* concerning perjuries; those who are not to be considered guilty of the crime of perjury are those who, in order to avoid sins, submit themselves to the judgment of the Church. It is affirmed that the actress possesses such integrity of conscience, due to her pious education received in the monastery, and her observance of religious and moral principles, by ten witnesses who testify with one voice; and if one were to be excepted, it is Charles, who, without legal proceedings, bitterly calumniated Angelmann, and nowhere in the records does any evidence appear contrary to the purity of the actress's mind. Nor can any suspicion of collusion be raised between Angelmann and Charles; and this is demonstrated, not by one, but by several points. Although both spouses have publicly confessed that

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their marriage remained valid, they nevertheless strive to prove the lack of consummation with entirely, indeed, contradictory reasons. Charles, in the petition for divorce, accuses Angelmann and cites reasons, namely, a manifest and absolute unwillingness on her part, expressed from the very beginning of their cohabitation, and subsequently maintained through rejections, evasions, and simulations, even as the parents of the girl pleaded with her to abstain from him, and this is still true of Angelmann, as much as possible. On the contrary, Angelmann, under oath, accuses Charles of a lack of consummation, stating: "Although I never refused myself to him in the required manner, citing my health, nevertheless, he himself, precisely he, did not want to consummate the marriage, saying: 'he wanted to act with me as with a boy,' because 'he did not want to have children, and moreover, it pleased him better to act otherwise.'" If these spouses had been conspiring, it would not be explained why Charles repeatedly refused, both legally and extra-legally, to appear before the judge, in order to avoid the charges.

[*Latin ed. p. 95*]

MOLINEN. 95. That she might be cleansed from the accusations brought against her by the actress: for as long as these accusations remained, no faculty would be granted to her by the Sacred Order to take other vows. Therefore, full faith must be given to the testimony of the sworn actress, for she affirms, under oath, that her marriage remained valid, solely because of her husband, to whom she never opposed herself regarding the consummation of the marriage, and with whom she shared a bed and chamber from the first day of the marriage for seven months and twenty-one days. From that time, she did not return to Cantilly until December 15th, and she would have remained there, had not Charles driven her away the following day with harsh rebukes. And thus, Angela departed, lest she expose herself to worse things, and would not see the conjugal home again. It is worthwhile to diligently distinguish one period from another, so that the lack of consummation may be accurately determined. And Angela distinguishes two periods in the aforementioned account. The first extends from February 7, 1882, to September 28 of the following year; the second begins from that last day and continues until December 16 of the same year, in which, after two months and seventeen days, during which she had been a guest in the house at Pernes, she finally returned to Paitot's home, and was immediately driven away, and did not return there again. Regarding the first period, it is clear from the statements that the marriage was not consummated. Regarding the second period, nowhere is there found a word, either in the discussions or in the records, to indicate what occurred during that time concerning the consummation, which, it is evident, should have been established by the judge. Therefore, we must strive to supplement this omission. To explore this period, no other argument remains than that which can be

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inferred from conjectures and supporting evidence, for while individual pieces of evidence may not be sufficient, many collected together are helpful. See *Glossa in Praeterea* 27 on wills, and *attest. verb. de auditu* at the end, and chapter 13 on the probative value of supporting evidence; and see *J. sancimus C. de testam, etc.* These, indeed, are considered to be present and strongly emerge from the aversion of the aforementioned spouses and from the hatred of the Paitot family, which was not...

[*Latin ed. p. 96*]

96. MOLINËN. The family relationship between the Druelle family, to which Angela belonged, is established, and it is explicitly stated in a letter from Charles, dated September 28, 1882, addressed to Angela's mother, that she left the marital home in Vichiacum on that day, to go to her mother in Cantilly, where she would live as a farmhand. Furthermore, the aversion between the spouses is confirmed, on Charles's side, by the statements he made before the court in the divorce proceedings, which were so significant that they led to a favorable judgment for him; and on Angela's side, by sworn depositions in which she repeatedly described her marriage as "hell," and stated that she had, as much as possible, distanced herself from her husband, and that she in fact strongly detested him. From these facts, it can be inferred, as stated above, that neither Charles intended to remain with Angela at her mother-in-law's house, nor did Angela intend to return to Paitot. In fact, she only visited the house on December 15th of the previous year, accompanied by her father, and was immediately rejected, as I will soon recount in detail. Furthermore, it is not to be presumed that the marriage was consummated on the night of December 15th to 16th of the aforementioned year, at the Paitot house. For, during that time, Antonina Burgne, a witness, testified under oath that Charles repeatedly wanted to call the soldiers and the judge to have Angela expelled in a shameful manner. Therefore, from Angela's entry into the Paitot house, up to her expulsion from it, it remains proven with moral certainty that the marriage remained constantly unconsummated. The unconsummation of this marriage is further corroborated by the sworn deposition of the plaintiff, as stated in the seventh paragraph, and is supported by the testimony of other witnesses. The full force of these witnesses in the case of marriage is only valid insofar as it is based on their oath regarding the credibility of the spouses, as stated in the cited passages from Laudabile and Requisiti, and this is done wisely: for when dealing with hidden matters, these witnesses testify that they truly believe that the statements of the parties are credible, to the extent that they are worthy of trust, and thus, through their own oath, they become purifiers of any doubt.

[*Latin ed. p. 97*]

Regarding the ability to refute falsehoods, or the perjury of those individ-

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uals, as Innocent [Innocentius] excellently explains in the aforementioned work, chapter "Laudabilem," at the end, and as John Andrew [Andreas] states there, number 10. From this, we gather the utmost value of such testimony, since, as Cardinal Turrecremata concludes in his work "Requisita," number 4, concerning these matters: "Although, as is concluded, there would never be certainty regarding the fact itself through evident proof, nevertheless, a man, for the most part, relies on probable signs and conjectures, which, although not sufficient to generate knowledge, are sufficient to generate faith or belief." And so, the Doctors commonly state in the aforementioned work "Laudabilem." See Pirhing, *J. C. I.*, 4, title 15, § 3, note 4; Schmalzgrueber, *ibid.*, numbers 89, 90. And to attain this most valid proof in the matter at hand, it will not be difficult for many. For there are seven witnesses to the actress's assertion of the lack of consummation, among whom are two relatives of Angela, three from her neighborhood, and two parish priests: namely, one who was the author and leader of this nefarious marriage, and who is now the parish priest of Cantilia, the Principal Curator in the Diocese of Molinensis, after him, the Cathedral; the other who currently manages the parish of Cantilia. All of these, when questioned whether they believed that the marriage of the spouses Paitot-Druelle had been consummated, without hesitation, responded that they certainly believed that Angela had remained a virgin, because they held that the marriage had not been consummated. Therefore, through the testimony of these seven witnesses, confirmed by the oath of the sacrament, it is sufficiently established and proven that the actress truthfully asserted the lack of consummation of the marriage. Regarding the third point of the question, the consulting judge stated that the examination of the girl's body constitutes the most important proof, indeed, the *ONLY* proof for this type of case, as the most astute Vindex Matrimonialis [defender of the marriage bond] aptly states in his official opinion in the case. And indeed, this proof is of such weight, as stated in the aforementioned chapter "Proposuisti," that, according to what is transmitted in the Glossary in case 14 concerning witnesses and testimonies, even "the testimony of women is preferred over the confession of the husband." *Acta*, Volume XXIII, page C OL XVI, 7.

[*Latin ed. p. 98*]

98 MOLINEN. and rightly demonstrate Mascardus in *De probationib.*, vol. 3, conclusion 1410, no. 14 and following; Pirhing, *op. cit.*, I. 2, title 19, § 6, no. 28; Schmalzgrueber, *ibid.*, no. 64; and what kind of demonstration of truth, according to Pichler, *ibid.*, no. 13: which must be more and more considered in the case where the confession of the man is lacking from the procedural records, nor can it be hoped for, as we have seen. However, this defect could be remedied by the judgment of the judge through witnesses to be inquired of by him ex officio, and in the aforementioned case, he

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prudently did so, as I believe; also noting that in the matter of *casus*, witnesses of all ages are not required, according to the rule of law, *c. Super eo* 22 *eod.* and *c. Videtur* 3, who, it is commonly taught by Doctors, as found in Grutierez, *De matrim.*, c. 44, no. 68, and most widely demonstrated by Mascardus, *op. cit.*, vol. 2, conclusion 1022, no. 15, *per tot.* Therefore, this examination was completed with a dispensation, as I noted before, to avoid scandals, with strict observance of the entire form prescribed by the Constitutions *Dei miseratione* and the Instruction. However, the Defender of the Bonds of the Holy See, in the aforementioned documents and transmitted in copy, warns that the Curia of Molinen begins to carry out such an examination superficially. And it is only evident from the records, from a declaration of five or six lines by two midwives, after being admonished by a Doctor-Surgeon, under the vigilance of an honest matron, individually affirmed, and from the answers given in confirmation of the conclusions presented to the Magistrate Gannati in the judgment of divorce of these spouses, with two Doctors added there: omitting entirely any other questioning of the Doctor-Surgeon Hilary Fournier, who was then in charge of the midwives. Furthermore, from the aforementioned documents, what is the status of the midwives? The first midwife, Anne Pacaud Buissionnier, declares: "I have observed that Mademoiselle Druelle is completely a virgin, with a hymen membrane absolutely intact: the orifice is quite circular, and the conjugal act could not have taken place in the current state of the young woman." The second midwife, Francisca Alligier, wife of Digot, declares:

[*Latin ed. p. 99*]

MOLINEN. 99 "It has been ascertained that Mademoiselle Druelle is entirely a virgin, that the orifice of the hymen is circular without any scar, and she affirms, without any hesitation, that no conjugal intercourse has taken place." The expertise of the physicians was performed and confirmed on August 13, 1883, by the Reverend Fathers James Nicolas and Prospero Willemin for the Magistrate of Grannat, and now it has been confirmed under oath by the same individuals before the court of Molinen, in which it is concluded as follows: 1. The condition of the genital organs is in no way consistent with a conjugal life of seven months. — 2. If any attempts at defloration occurred, they were incomplete, as proven by the conformation of the hymen, which appears to be intact. However, I, E. E. P. P., admitting all the preceding proofs, do not consider this final one, which, as I have said, is the most powerful, indeed the only one, for proving the integrity of Angela, to be sufficient. For, when a comparison is made between the time when the examination of the girl was completed and the period of seven months of cohabitation of these spouses, it is of no consequence: because the terms of the comparison are very disparate, and it does not appear how they can be equated. Indeed, it is true that this proof should be taken

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cumulatively, not conjunctively, as requested in chapters *Requisivisti* and *Laudabilem*, § if cited; but when other proofs prescribed by the rigor of the law cannot be obtained from the other spouse, this examination of the woman will be more rigorously required, since it concerns the dissolution of the bond of the great sacrament, for which, as taught by the Rota's decision 392, n. 27, cited with all the Fathers, and by the Holy Congregation, it has always been held that "all caution and diligence must be employed, so that, as far as human frailty allows, all fraud and error may be excluded." I know indeed that "sometimes it is expedient to relax the bonds of the law, as has happened in various cases and necessities, for the common good," chapter *Sicuti*, 18, Council of Trent, Session Ultima, concerning Reform; and in fact, as I have said, in this case, in order to avoid scandal, it seemed necessary, as in other cases, to dispense from the strict observance of the entire form prescribed by the Holy See.

[*Latin ed. p. 100*]

100. The examination of the woman's body; but exceptions do not prejudice the cause, nor do they diminish the validity of the right. Therefore, the Sacred Congregation, when granting the aforementioned dispensation, cautioned that all and each thing which could contribute to a full knowledge of the cause and a perfect understanding of the conscience should be diligently observed; and to achieve this, the most illustrious defender of the marriage bond, by order of the Sacred Office, expressly designated the observance of §§ "Procedendum" and "Iudex Instructionis" (Proceeding and the Judge's Instructions). Consequently, only two of the three obstetricians, and in the case of two experts in the art, a physician-surgeon, were called upon. But was the examination of these individuals truly omitted in the discussion through questioning? Would anyone, having granted such a dispensation, exclude the necessity of the "balneum" (bathing) as solemnly prescribed in § "Procedendum," especially since it is the most suitable means of obtaining certainty with a full knowledge of the cause and a perfect understanding of the conscience regarding all that is hidden? Who would dare to defend the integrity of Angela, when her single testimony, supported by the seventh witness's oath of credibility, while united with that of the husband, which, as we have seen, is lacking, regularly proves, from the text of chapter 5 concerning him who is judged, a negative consummation? And even if the confession of both spouses, with an oath of credibility, were admitted according to the cited canons "Requisivisti" and "Laudabilem," to which, in order to strengthen it, the extrajudicial confession of Charles could also be admitted, as is permitted by the strictness of civil law "according to the equity received in the canonical court," as related by Cardinal De Luca in "De credit, et debit, discur," 148, n. 2, it would nevertheless be of no value in this case, either because the husband, fearing his own conscience, does not offer himself for dissolution of the marriage;

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or because, being corrupted by bad habits, and with the hatred with which he treats his wife, who is religious and very virtuous, he introduces a desire to deceive her, causing an injury to the sacrament.

[*Latin ed. p. 101*]

MOLINEN. 101, namely, so that he himself knows that he has desired her, and thus obtains a dispensation through deceit. But in the case of the necessity of a medical examination of the girl, the greatest weight is gained because of Charles' unrestrained lust, from which he has always abused his innocent wife; and considering this, I would say it is impossible that there has not been some mingling [of seed] at some time. Certainly, the task here, the labor, is to find someone who, as Conscius says in *De separ. tor. coniug.* I. 3, c. 2, n. 261, « can believe without any bitterness that they have performed this miracle, » that is, that it has not been consummated! And indeed, Charles, who had contracted the marriage with no other end than to satisfy his lust, powerfully potent in the heat of youth, under cover, not for one or two nights, but for a marital cohabitation of seven months, arrogating to himself such liberties as he pleased, alone with the girl, who was 18 years old and full of innocent virtue, excessively beautiful, and never refusing the requests of a man, even while he indulged in this insolent seduction, I say it is impossible to believe that, in the natural situation of conjunction, he never succumbed to a vehement impulse, so that even the unfortunate Angela, colliding with him in shame and passion, did not notice it clearly. Indeed, I, based on these details, conjectures, presumptions, etc., considered jointly and rigorously in this case, prudently doubt that this marriage was certainly consummated, and that this, despite the truth of the actress's oath regarding the lack of consummation, is not the least. Now, if the Rota in Rome, in the matter of nullity of marriage, on June 19, 1651, before Arguilles, maintained the consummation because of it, because from the cohabitation in the same bed « it could not be a mere conjecture, nor a presumption, but FULL PROOF, » what, I pray, seems to be the decision in our case? Therefore, I insist again and again on the necessity of a medical examination of Angela: for it seems to be the only remedy, or precaution, to remove all doubt regarding her integrity. A solitary examination, without this...

[*Latin ed. p. 102*]

102. The use of baths, especially in young girls, leads to nothing other than to more and more firmly establish the presumption of sacrilege. The Canon Law, which states that "often the hand errs and the eye deceives," c. Causam 14, disapproves of this, and with the Glossa in the cited canon, supports the opinion of Leurenius I. c. I. 4. tit. 1, De frig. et male f. q. 244 num. 2, along with the opinion of Medicis apud Zacchiam Quaest. medie, leg. I. 4. tit. 1, q. 1, n. 16 et seq. Indeed, if the hymen appears, as is asserted

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in the case through the presented testimonies, then, if the precaution of the bath is taken, not merely a probability, but a proof to the point of certainty will be obtained, which is infallible and not subject to falsehood or alteration, and which produces a physical certainty, as stated by De Luca, op. cit. de iudic. disc. 25 n. 1, from which the integrity or defloration of a woman is fully proven. Because of this excellent advantage, I believe that this precaution, even if nowhere ordered by the Sacred Canons or by any law, should nevertheless be received with greater solemnity, as its author, Hostiensis, states in c. Causam cited, n. 4. And it should be expressly prescribed, both by the 5th Council of Lateran through the Instruction, as it warns, and by the Supreme Sacred Council through another decree, for this purpose. And how wisely this has been established can be proven from Zacchia, op. et loc. cit., because when this remedy is applied, "the aridity, contraction, and wrinkling of the parts cease, and they remain open, manifestly demonstrating corruption; which will become even more manifest if other signs, which we say appear in a violated virgin, are also visible and present here." Namely, in the kiss of the vagina, smaller, thinner, flaccid, and more relaxed caruncles will be recognized, with a color more subdued and tending towards lividity, separated from each other and distant from each other; for the caruncles separate from each other because of the violation or disruption of the membranes by which they were held together. All of these things are not absent in the inspection reported, and it is always found to be the case in the accounts, when the bath has been used, without which it is impossible to observe, especially when dealing with young girls, as is precisely the case with the designated parts, due to the vigor of their age and the firmness of the growing fibers.

[*Latin ed. p. 103*]

MOLINEN. 103 They are more tenacious, as if by native solidity and retention, as rightly observed by physiologists, cf. Zacchia, op. cit., n. 16, compared with q. 3, n. 10, etc., as presented together. As Sánchez De Mat. generally notes, L. 7, disp. 113, n. 11, it is strictly required by the judge that a *balneum* be administered, because when a marital bond is being dissolved, "whatever possible proofs must be admitted, and RATHER THEY SHOULD BE SUPERFLUOUS THAN DIMINISHED," and this had been demonstrated previously, ibidem, disp. 107, n. 1, according to what was handed down by Hostiensis, John Andrew, Ancharanus, Praepositus, Alex. de New, etc., etc., with the most common Doctors; I beg Your Eminences and Reverend Fathers, with what words did this most wise Doctor use here to prescribe the *balneum* in this matter? If the *balneum* is to be administered without prior condonation, as Coscio testifies, op. cit., n. 197, "in order to remove doubt about incorrupt virginity as much as possible; ... it is necessary," and if prior cohabitation has occurred, "then the presumption of consummation, and consequently of the woman's defloration,

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arises," ibid., n. 200. Concerning this crucial proof, it is thus stated in the masterful decision before Ursino, January 23, 1686: "By the *balneum*, any suspicion of fraud ceases, considered from the text, because the eyes and hands are often deceived, and the proof derived from it is valid and CERTAIN, and as such it is admitted in c. Causam de probat, where it is stated, caii. nec aliqua, 27, q. 1, and Hostiensis teaches in d. c. Causam, n. 14, and the Abbot in c. Fraternitatis de frig. et malefic., along with other things related by Sánchez, etc." Decision X, n. 38, addressed to Cardinal De Luca, concerning Matrim. De Regul. et Matrim. What, after all this, can we say about the Molinen Curia concerning the omission of this precaution, which was indispensable in this matter, either because in this particular case, the suspicion of cohabitation is very strong, due to the prolonged cohabitation of such spouses, or because the apostolic dispensation granted does not justify the unwarranted omission, since, beyond all scandal, it could have been applied, or finally, because the Sacred Congregation, by the vote of the Defender of the Bond, authentically communicated,

[*Latin ed. p. 104*]

104. MOLINEN. The paragraphs proceed, and the Judge, having expressly designated [the issues], declared, or rather, imposed [certain requirements]. Therefore, since it seems to me that it has been sufficiently and abundantly proven that the integrity of the actress can be called into question, it pleases and is fitting for the aforementioned cited cause to conclude regarding the proposed point, namely, "that you wish and order that honest and prudent matrons be appointed or designated to investigate whether the aforementioned girl possesses the privilege of virginity," in order to determine the causes for a dispensation. The Consultor stated that five reasons are alleged by the actress in her appeal, seeking a dispensation, namely: a) consent given by her, coerced in the celebration of the marriage; b) a grave and invincible error concerning the qualities of the person; c) the scandalous behavior of the spouse, contrary to the good of the sacrament; d) grave threats and acts of cruelty, both by the husband and by the in-laws; e) finally, a vow to enter into new marriages; all of which, except for the last, the Defender of the bond attempts to refute before the court of Molinen. However, the patron of the initial instance of the actress accepts only the first of these five reasons, and adds three new ones, namely: a) a singular condition made to the actress because of a civil divorce obtained; b) the danger of incontinence for the actress; c) implacable hatred between these spouses. More or less, proof could be presented regarding some of the aforementioned reasons, except entirely for the first and last presented by the Patron: except for the first, because "he invokes the help of the law who commits an offense against the law," c. Quia 14 de usur; except for the last, because although it is considered sufficient by many, it is deemed insufficient by several doctors of the first

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rank, as Fagnanus states in c. Ex parte 9 de convers. coniug. n. 15, etc. But, lest the matter be prolonged over a single point, and I consider it the most valid, I will insist: namely, on the scandalous behavior of the spouse, contrary to the good of the sacrament. Therefore, it has been shown, from c. Si conditiones, that consent in marriage is made consent to carnal copulation, as a condition without which [it is not valid].

[*Latin ed. p. 105*]

In IOS, the exchange of bodies constitutes the very essence of marriage; otherwise, the marriage would not subsist from the beginning, and there would be no valid offspring. This opinion is more probable than that of Saint Thomas, *Summa Theologica*, I-II, q. 28, a. 4, as well as that of theologians such as Sánchez, *Opera*, I, 5, disp. 10, total; the Salmanticenses, *Opera Moralia*, vol. 2, tract. 9 de matrim., cap. 7, dub. 3, total; and notably, n. 95; Layman, etc., as well as that of canonists such as Gonzales, *in cap.*, if the conditions mentioned above, n. 8; Barbosa, *ibidem*, n. 3 de condit.; Pirhing, *Opera*, I, 5, tit. 5, § 3, n. 13; Schmalzgrueber, *Opera*, I, 4, tit. de condit., § 5, n. 119 et seq.; Conscius, *Opera*, I, 1, cap. 16, n. 271 et seq., along with almost countless others who are cited and approved by them. The Holy Congregation of the Council, in the aforementioned document concerning the case in the Western region, has also affirmed this. Indeed, a condition of this nature, pertaining to the substance of marriage, is repugnant and vitiating, and it is explicitly stated to have been imposed by Charles in his marriage, as he himself declared to Angela, and this was confirmed by her oath. She stated: "He declared to me that he wanted to act with me as if I were a boy," and this was because he did not want to have children, and moreover, it pleased him better to act in a different manner," that is, he directly intended to remain in the marital bond contrary to the good of procreation. Although it must be admitted that this statement is primarily confirmed by Angela's testimony, yet, since we are dealing with a hidden matter that cannot be corroborated by any other testimony except that of Charles, who, knowing that he is accused of this crime, obstinately refuses to appear in court to clear himself, which constitutes a confession; and since it is also known that Angela is worthy of all trust, and her testimony can still be corroborated by the testimony of her own parish priest, there is absolutely no reason to doubt the truth of this assertion. Furthermore, this can also be confirmed by the notorious licentiousness of Charles, in which, from his youth, he has not only been prone, but has been diligently inflamed by his parents, who thus had a great part in the cruelties inflicted upon the unfortunate Angela. Thus testifies D. Boutry, canon and theologian of the cathedral of Molinen. Not sufficient.

[*Latin ed. p. 106*]

106. MOLINEN. Unus testis, interrogatus in tribunali Gannati, testifi-

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cavit de moribus Caroli, qui adhuc erat coelibatus, res quae me pudet narrare. Tamen, cum argumenta moraliter validissima de crimine Caroli praesunt, considerandum est si haec argumenta sufficiunt ad iustum impedimentum ad matrimonium, ut hoc tantum ex gratia dirimatur: quod, sane, non dubito posse fieri, imo, ex iustitia, ita esse debere. Et sane, si haec impia et scelesta conditio absolute et antecedenter, sive explicite, sive tacite posita est, ut Sánchez, op. et loc. cit., n. 6; Palaus, op. moral, tract. 28, disp. 2, punct. 11, § 4, n. 9; Pitonius, Discept. Eccles., tom. 3, disc. 14, n. 14 et 33, de matrimonio servanda absque consummatione, ita esse iudicatur ex iure, ex Sacra Congregatio et ex sententia Dominorum, ut initio dixi, ut nullum illud irritumque efficiat, nonne erit ita, ut matrimonium, tantum per verba de praesenti consistens et numquam consummatum, ex sapienti iudicio Summi Pontificis, absolute resolvi possit? Item, si in matrimonio consummato, vitium contra naturam causam separationis praebet, ut docet textus in c. Idololatriae, 5, caus. 28, q. 1; in c. Omnes, 7, caus. 32, q. 7; et Glossa in praedicta canonica, Omnes, verbo Sodomitae; Abbas, in c. Maritis, 4, de adulterio; ibique Butrius et Innocentius, si hic recte intelliguntur, in c. Si seduxerit, 1, in fine codicis, quanto magis hoc, si non fuerit consummatum, causam iustam et honestam praebebit ad dispensationem apostolicam pro solutione vinculi obtinendam? Et sane ratio patet; nam ut natura ipsa matrimonium inclinans, prout est a Deo praeordinatum, in coniunctionem maris et feminae ad propagandam sobolem, et propterea, natura pariter ipsa, uti in medium necessarium pro coniunctione, inclinat ad individuam vitae consuetudinem per cohabitationem; sic natura eadem, fine a Deo praeordinato praeterverso, scilicet sacro vinculo scilicet abutendo, ut alteruter coniugum consulto vitium contra naturam enutriat, ab individua vitae consuetudine, quatenus matrimonium perstiterit inconsummatum, erit per solutionem vinculi dissolvendum.

[*Latin ed. p. 107*]

MOLINEN. 107 If this remedy were not applied, I implore the Most Reverend Fathers, would not connivance be fostered in the wickedness and abominations of the perverse? Indeed, absolutely not. For what could we possibly hope to achieve from such a deplorable and horrendous perversion of justice, against which God sent fire (Genesis 19:24), and for which the final judgment will be hastened (Joel 3:2), and which, according to both Canon Law and civil law (Canon Infames 2, cause 3, question 3, I), inflicts the most grievous punishments, besides other severe penalties with which it is assailed by both laws, so that, according to Pirphing, op. cit., L 5, section 3, § 2, n. 69, citing Saint Thomas (2-2, question 154, article 1, in corpore, with others there), unless the most heinous series of crimes were utterly extinguished, destroying the sanctity of the sacred offices, which have been entrusted to humanity by divine providence? Hence, it is clear that the favor of the dispensation is based entirely on the principle of prudence

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in the administration of justice, so that the Supreme Pontiff not only may healthily feed the sheep entrusted to him, and lead them to a life of piety, lest they perish and be exposed to the danger of eternal perdition, but also, out of the duty of his office, may exercise the power of authority against those sacrileges which he is bound to restrain by natural and divine law, so that perverse men, especially of this age, may not, with insane effort, utterly undermine and destroy all that is divine and human concerning the sanctity of marriage. Therefore, a grave and just cause for obtaining an apostolic dispensation for the dissolution of marriage is the infamous conduct of one of the spouses, provided that the marriage has not been consummated.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE, BY OFFICE. Charles Paitot, who was twenty-four years of age, and Angela Druelle, who was eighteen years of age, entered into marriage, observing all the sacred forms of the holy Council of Trent, on February 7, 1882.

[*Latin ed. p. 108*]

108 MOLINEN. The newlyweds shared the same roof and bed until the following September, when Angela, with the consent of Charles, requested to return to her father's house. On December 15th of the same year, she returned to the marital home, which she left the next day, never to return. This kind of marriage proclaims a work imperfectly accomplished. But what she asserts, it does not at all demonstrate to the point of law. Furthermore, the matter concerns spouses of flourishing age, who slept together for seven months, with any doubt of impotence, whether absolute or relative, having ceased. Therefore, arguments absolutely unavoidable are required to eliminate the most serious suspicion of consummation of the marriage. The arguments brought forward by Angela are not relevant to this matter. Indeed, the most excellent canonist, after carefully considering the arguments presented by Angela from Vico Equense, and responding to the question: "Can it be established that the marriage remained valid in its essence, but was not consummated?" answered most prudently: "The proofs regarding the integrity of the woman must be prolonged and assisted. And so that I may not seem to be acting merely superficially, I will say that an examination was made of Angela's body without bathing." This is almost similar to the examination of the body that Doctors James Nicolas and Prosper Willemin performed at the request of Angela herself on August 13, 1883. Neither these doctors, nor the aforementioned midwives, examined Angela before the examination of her body, without bathing. Here I ask, if those who are held in honor, and who wish to prove the virginal integrity of a woman, consider such superficial examinations to be sufficient, then all are mistaken, both modern and ancient, who wish to precede the examination with a warm bath; for they are not content with the existence of the hymen, but furthermore consider it necessary to

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observe many other signs, whether of intact or violated virginity, and to pay attention to the color and firmness, not only of the genital parts, but also of the entire body.

[*Latin ed. p. 109*]

MOLINËN. 109 Given that the circumstances are as described, I believe it is superfluous to discuss the reasons for granting a dispensation; and therefore, without delay, I request that the matter concerning the doubtful case be submitted for a definitive response – if not, then – the evidence should be extended and supplemented. After these preliminary remarks, the following questions are to be considered: I. Does a nullity of marriage exist in this case? And if so, in what respect? II. Should the Most Holy Fathers be consulted regarding a dispensation from a marriage that is valid but not consummated in this case?

RESOLUTION. The Sacred Congregation, after discussing the matter on March 29, 1890, decided to respond as follows: To I. Negatively. To II. Affirmatively.

METENS. REGARDING THE BURDEN OF THE TRANSLATION AND ABSOLUTION. March 29, 1890. Through a brief summary.

COMPENDIUM OF THE FACTS. The Bishop of metensis, in his recent letter to the Most Holy Fathers, stated the following: "In his Diocese, many foundations for Masses are found, which are poorly organized, and he greatly desires to regulate their status according to the sacred canons and the norms of equity." "Furthermore, in previous years, it has often happened that a fund or sum of money, which was initially established, proved to be insufficient to fulfill the obligations imposed, and which were accepted by the administrators of the churches without the approval of the Bishop, indeed, without any recourse to him." "Moreover, several foundations are found, of which the fund, although initially sufficient, has diminished or even been consumed over time, mostly innocently, particularly after the civil disturbances of the 18th century, by which the status..."

[*Latin ed. p. 110*]

In Metz. All the churches of France have been burdened; and either the obligations of the past are not fulfilled, or there is not presently what is sufficient to fulfill them. Furthermore, the revenues have suffered a great diminution in recent years, due to the repeated conversion of public debt, which has been carried out by the civil government: so that the money lent on usury produces a much smaller return than before, so that often, for a sung Mass, there is barely enough left from the alms of the Mass to pay for the reading. "Indeed, for many foundations, what is foreseen by Benedict XIV in his work *De Synodo*, Book XIII, chapter last, paragraph 28, is verified, namely, that the alms for sung Masses, which were increased by the Bishop in the Synod of 1883, are now found to be insufficient to meet

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the expenses of the foundation, and that no priest can be found who will celebrate Mass, given the alms offered according to the old tariff." "Indeed, the Bishops of Metz have not been remiss in trying to remedy this evil from the beginning. After the restoration of peace in the Church, the Bishop of the time intervened to reduce and regulate the old foundations; but without the approval of the Apostolic See, first because he considered that, given the very extensive powers granted to him by Cardinal Caprara, it was permissible for him to do so; and also because, since a greater number of such foundations had been admitted imprudently without the consent and approval of the Bishop, he maintained, perhaps not without reason, that in such a case, as if at the very threshold of the foundation, the Bishop's natural right to 'investigate whether the revenues are sufficient, and to arrange everything according to equity' (Monacelli Formul, leg. pract., vol. I, pages 202-204, no. 7) should be exercised. Therefore, such regulations, in many cases, seem to give the appearance of a true reduction, which is forbidden to the Bishops. It seems to be in agreement with the decision of the Sacred Congregation of Councils in the matter of the *Regium Opus* of Pius, dated December 17, 1859; in which it was declared that the decree of the Bishop, by which he established certain norms and rules, should be maintained, so that the revenues of the pious endowment, after various changes in circumstances, would be administered more appropriately according to the circumstances of the time, and distributed according to the founder's intention. Furthermore, there was a special reason why the Bishops considered it permissible to act in this way."

[*Latin ed. p. 111*]

METEN. or the management of endowments. In Article XV of the French Concordat of 1801, it is stated: "The Government will take care that it may be freely permitted to Catholics in France, if they so desire, to consult with the Church regarding new endowments." This article certainly recognized a right for the Government to issue regulations, to which Bishops and the faithful were obliged to submit. Indeed, one of these regulations established the right for Bishops, either initially or even subsequently, to carry out reductions, which are necessary due to the diocesan tax or a decrease in revenues. The founders are subject to this law and, therefore, implicitly acknowledge the Bishop's right regarding endowments. However, it is well known that the founder's intention holds a primary place in endowments. Furthermore, it often happens that, in order to encourage the faithful to make pious endowments, a sum is not demanded that is greater than what is strictly necessary to cover the expenses, so that, from the beginning, a certain reduction is foreseen and accepted by the founders themselves, to be made over time. In some endowments, this is expressly stipulated, so that, with a verified reduction, a reduction must be made, by virtue of the condition itself included in the contract. "All of these things could also

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be applied to another reduction, which was carried out around the year 1850, both to restore some burdens that had been reduced too much previously, according to the means of the churches, and to define the status of endowments that had not yet been regulated. Furthermore, since that time, it has happened several times that, in particular cases, at the request of the parish priest, the Bishop has considered it appropriate to grant the requested reduction, using his own authority, for the reasons mentioned above; especially since reductions of lesser importance were often granted not permanently, but for a time." "In these regulations, it could also happen that endowments that had already been reduced at earlier times were reduced again: which, especially after the disturbances of public affairs at the beginning of this century, with diminished or lost revenues, could not be avoided; especially since, according to the law of L ult. ff. de Commodato, a thing is not bound to anything by force of a higher law when the fund has been exhausted. The Holy See, in the Spoletana of June 17, 1775, states this. And subsequently, it does not seem that new burdens should be imposed under this heading, since..."

[*Latin ed. p. 112*]

112 METS. Near Fagnan, in chapter 2 of the Constitutions, it is stated: "The fruits must answer for the burdens." "However, it has been determined that, although these means require some adjustment in certain cases, the consultation involves more difficulties. But not for all: for since the year 1864, the part of the diocese of Nancy-Toul has been attached to this diocese of Metz, in which no reduction of foundations has been carried out, although the causes for such reductions are no less evident in those places; moreover, after the general reduction of old foundations, not all the more recent foundations that were to be reduced were presented to the Bishop. Therefore, even in these present times, and especially throughout the entire diocese, and particularly in the aforementioned part of the diocese, many are found to be in need of being brought into conformity with the norms of sacred canons and the principles of equity." "Furthermore, there are special difficulties that in some cases suggest departing from the usual method in the arrangement of such matters: 1. All foundations that are established in this diocese, as is commonly the case elsewhere, as testified by Ferrari V, Legate n. 123, are always assigned "in favor of the fabric of such a church," which is considered to be the heir, and which assumes the burden of providing for the fulfillment of the obligations arising from the funds or money bequeathed for the foundations, so that "the remainder is yielded to the benefit of the church," according to the teaching of Chapter 25 of the Decrees, transmitted by the Sacred Congregation of Rites in Rome, Legate 6 August 1658, and in the terms found in a memorandum from Civita Castellana, dated 15 December 1742. Indeed, at the very beginning of a foundation, it is always ensured that a certain portion of the income of the

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fabric must be ceded, not merely as compensation for expenses, but rather as a true donation in favor of the Church. Therefore, such foundations seem to be reduced to the same category as bequests, which include both the celebration of Masses and the giving of alms. Indeed, Benedict XIV, in the aforementioned work, n. 23, teaches that such bequests should rather be directed towards pious works than towards Masses, unless perhaps it should be judged otherwise from the words of the testator. For when it is clear that the testator intended with the same fervor to provide for both Masses and other pious works, as in the case of..."

[*Latin ed. p. 113*]

METEN. 113. It appears that, according to the very foundations and the common practice of the faithful, reductions must be made in the same proportion in Masses and in pious donations, or in the expenses of the fabric, as Bracharen states. *Reduci. 3 Sept. IS 18*. Even more so, because the revenues of this kind, when considered individually for the benefit of the fabric, are usually of lesser importance, and the Constitution *Nuper Innocent. XII*, in the doubts resolved by the Sacred Congregation of Rites on June 21, 1625, paragraphs 25 to 27, permits that, when other revenues are lacking, which is a situation that is not infrequently encountered, since not a small part of the revenues of churches consists in the endowments for foundations, even a portion of these alms may be retained by the churches, on account of the expenses they incur in the celebration of Masses.

2. Regarding chanted Masses, which constitute a larger part of the endowments, according to the practice of the Sacred Congregation of Rites and the teaching of Benedict XIV, book 1, chapter 34, when all the endowments are not sufficient to fulfill the obligation of a chanted Mass, they must be applied to the celebration of as many chanted Masses as are possible. Indeed, it is not uncommon for heirs to completely reject such a reduction, while, on the contrary, they readily agree to a reduction in the very number of chanted Masses. It seems prudent to defer to their wishes, since they represent the person of the testator, and so as not to deter the faithful from pious foundations; even more so, since in most parishes, endowments are found only for chanted Masses, and Masses elsewhere must often be celebrated.

3. However, in the reduction of sung Masses, another difficulty arises. According to the teaching of Benedict XIV, book 1, chapter 35, the reduction of perpetual Masses must be made to the amount required for a manual Mass, as they say. Indeed, it often happens that the faithful spontaneously offer alms for a manual Mass in place of a perpetual Mass; so that the priest, who could not satisfy all the obligations of Masses, both perpetual and occasional, at the same time, would be obliged, to his own detriment, to celebrate perpetual Masses at the amount required for a manual Mass in the church of the foundation, while giving the other Masses, which are

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occasional, to be celebrated at the amount required for a perpetual Mass. Perhaps this difficulty could be remedied in this way, as the Bishop, with prudent judgment, or in the Acts, Volume XXIII, page 266, number 8.

[*Latin ed. p. 114*]

114. Regarding the reduction of Masses, a perpetual tax should be established according to the custom of the Diocese, or in places where the priests do not lack alms for Masses, if the descendants of the founders are either absent or unwilling to consent, the Masses should be transferred to other churches for celebration, always informing the Bishop beforehand about the fulfillment of the foundation: as was granted to the Most Reverend Prelate Engolismen by a rescript of the Sacred Congregation of the Council, Faculty of Appeals, dated August 18, 1888. "Finally, it must be noted that in some parishes of the diocese, foundations do not require reduction, but rather transfer. In these cases, the number of Masses founded by the faithful's contributions has increased so much that, if all of them were to be fulfilled in the same church, and given the shortage of clergy, there would not be enough days to celebrate the Masses of the dead, or others of this kind, which must be celebrated entirely in the parish church. Therefore, it happens that the pastors transfer the Masses of older foundations, especially those of which it is certain that the descendants of the founders are no longer present in the parish, or do not consent, to other priests: not, however, perpetually, that is, once for all, but each year a greater or lesser number of Masses, as necessity requires. This method of proceeding, although imposed by necessity, is less in accordance with canonical equity, which prohibits the perpetual transfer of Masses without the consent of the Holy See. "Therefore, so that all of these matters may be defined in accordance with the order prescribed by the canons and the exigencies of the circumstances, and so that the Sacred Congregation of the Council may not be overwhelmed by tedious labor, the Bishop humbly requests: "I. That the Holy See may deign to grant a remedy for all reductions that have been carried out up to now without the permission of the Apostolic See, even if some of them have perhaps been reduced again after having been reduced previously, provided that all proceedings are found to have been carried out according to the prescriptions of the holy canons; according to the rescript of the Sacred Congregation of the Council in Herbipolis, and the Ordinances of the Order of Saint Augustine, Volume and from the beginning, dated March 23, 1889; and without imposing any new burden."

[*Latin ed. p. 115*]

SECTION 115: "II. In order that a broad faculty may be granted to them, for the next five years only, with the remission of past obligations, and the reduction of future obligations, or, if necessary, the temporary suspension of certain burdens of the parish, including Masses with singing, reduced to

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a smaller number of Masses again with singing, as often as it shall seem necessary to the Bishop, according to what has been explained above; provided that the income of the parish churches remains proportional to the number of Masses, according to the custom of the Diocese and as explained above; and finally, the alms collected from the reduced Masses are assessed at the rate of a perpetual Mass, or, if a smaller alms is deemed more appropriate at times, the rectors of the churches are given the power to arrange for the celebration of those Masses elsewhere."

"Furthermore, the rules established by Benedict XIV in his aforementioned work *De Synodo*, especially in the case where goods belonging to benefactors have been lost or alienated through the fault of the administrators, shall remain in force, imposing the burden on the parish to restore them as far as possible;"

"Reference is made to the decrees of the Sacred Congregation for the Propagation of the Faith in Tolentinaten, in the documents *Comm.* vol. 24, March 1888, and the cited document from Engolismen (1)."

"III. It is permitted for pastors who are unable, according to what has been explained, to fulfill all the obligations of Masses in their own church, to entrust the celebration of those Masses, as mentioned above, to other priests, with the understanding that they are responsible for the faithful fulfillment of these obligations; reference is made to the aforementioned decree in Engolismen; and with prior absolution regarding any transfers of goods made in good faith up to this point."

After these considerations, the question was raised as to what should be answered in prayer.

RESOLUTION. The Sacred Congregation of the Council, after deliberation on March 29, 1890, decided to respond: "To the Bishop, for the granting of grace regarding past matters, as far as necessary, and regarding the rest, according to the requests, after consultation with the Most Reverend (1)."

(1) *Recollections*, Vol. XXI, 127, 352.

[*Latin ed. p. 116*]

ORTONA. APPLICATION, dated March 29, 1880. Summary of prayers. COMPENDIUM OF THE MATTER. A sodality of the Most Holy Sacrament was established in the church of Saint Cross in the place of Tollo, and it lacks a priest who, on feast days, after the recitation of the Divine Office, would celebrate Mass before the confreres, since the priests of that place must fulfill their own duties towards the parish church. However, the members, being in need, cannot call a priest from afar to offer the sacred rites in the aforementioned oratory; therefore, they humbly request that the parish priest of Tollo, who is also the moderator of the pious sodality, be granted permission to celebrate a second Mass for the confreres in the church of Saint Cross. The Archbishop administrator of the Diocese of Ortona, having

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been consulted regarding this matter, responded as follows: "Regarding the prayers presented, I believe that everything stated in the petition is true, and that the circumstances are at least equivalent, if not identical, to those required by the Constitutions of Benedict XIV, as declared to Us. Moreover, the Archbishop himself has been elected by the sodality of the Most Holy Sacrament as its spiritual director, and he is bound to celebrate Mass for the people on Sundays and other feast days in the parish. Therefore, we earnestly commend these prayers to the clemency of Pope Leo XIII, so that the requested grace may be granted." SYNOPTIC DISCUSSION. And indeed, the reasons for granting such a concession are based on expediency and piety: if the members, who gather separately from the parish church in their oratory for the recitation of the Divine Office, are not assisted by a priest through the celebration of the sacred rites, it seems fitting to grant them this grace.

[*Latin ed. p. 117*]

ORIONEM. One hundred and seventeen churches are there, and the faithful ought to fulfill their festive obligation there. Moreover, it is clear that this condition is burdensome, and it may gradually lead to the recitation of the Divine Office in the church of the Holy Cross becoming obsolete. Therefore, it seems to promote the cause of piety among the faithful, and to safeguard and increase the reason for divine worship, to grant a dispensation from the positive ecclesiastical law. This can be maintained even more firmly if one considers the canonical law and the common opinion of the Doctors on this matter, namely that the repetition of the Holy Sacrifice is prohibited, but not absolutely, but, as is noted in chapter 3 of *De celebratione missae*, "unless a cause of necessity dictates otherwise." That is, as the Glossa explains there, "unless a cause of honesty or utility dictates otherwise," provided that the matter is not about the utility of the celebrant, but of those attending Mass, as the Doctors state in Lucidi, vol. 2, new edition, p. 632. However, in this case, the matter concerns not the utility of the celebrant, but of those attending Mass. THE GRACE SEEMS TO BE DENIED. But, on the other hand, it must be considered that the cause of honesty and utility should not be extended to such an extent that a dispensation from a very serious law is granted for any useful or honest reason. It is known that Benedict XIV, in his constitution *Declarasti nobis*, stated that the facility of repeating the Holy Sacrifice has undermined it, saying, "Moral theologians have devised too many cases with excessive leniency; and therefore, they have stated that the repetition of the Holy Sacrifice is not permitted unless 1. the parish priest has two parishes or two populations so separated that one of them cannot have the parish priest celebrating Mass on feast days, due to the distance of the places; or 2. when there is only one church in which Mass is celebrated, to which the entire population cannot gather at the same time; in both cases, "provided that no

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other priest can be found." And although it is known that, for equivalent reasons, the repetition of the Holy Sacrifice may be permitted; in this case, not only are the causes mentioned in the Benedictine constitution lacking, but even the equivalent reasons themselves seem to be absent. For, from an equivalent reason, the grace of permission for the repetition—

[*Latin ed. p. 118*]

418. It is inquired whether, in certain circumstances, it is permissible to dispense from the law which prohibits the repetition of the Mass, considering that, at times, a large portion of the people might be deprived of the holy sacrifice of the Mass without such a dispensation. Therefore, the Sacred Congregation for the Propagation of the Faith, in the year 1832, informed the Bishop of Nicopolis in Bulgaria that the Apostolic See grants the faculty of repeating the Mass "for the spiritual good of the faithful, desiring that all may easily fulfill the ecclesiastical precept." And in a recent Apostolic Constitution concerning the ministry, issued for England, it is declared that it is permissible to repeat the Mass "so that, unless some priest is granted the power to celebrate two Masses on the same day, the Church's mandate might not be fulfilled by more." Furthermore, the repetition of the Mass is not sought from this necessity and for this utility, namely, to prevent more faithful from being deprived of the divine sacrifice; but rather, so that it may be more convenient, and so that the brethren may not be unduly burdened, and for this reason, some are reluctant to recite the Psalms in their oratory. Indeed, it is clear that if such reasons were to be considered sufficient to dispense from the most serious common law, a very grave wound would be inflicted upon the observance of the law, for countless similar cases could be presented, and, under the principle of analogy, a dispensation would be sought in those cases as well. Moreover, the parish priest is obligated to perform many duties on feast days and on more burdensome occasions: for, besides the administration of the sacrament of Penance, he must devote himself to the sacred functions, both in the morning and in the evening, to the explanation of the Gospel, and to the explanation of Christian doctrine. Furthermore, if, in addition to these things, he were burdened with the obligation of a second Mass in the confraternity church, when human strength has its defined limits, the effort to fulfill this further office would most easily lead to a decline in the performance of other, more important parochial duties. Given these and other considerations, the question was raised as to how prayers should be dismissed.

RESOLUTION. The Sacred Congregation of the Council, after discussion on March 29, 1890, decided to respond: It is not advisable.

[*Latin ed. p. 119*]

119. MARSORUM. CONCERNING THE REDUCTION OF OBLIGA-

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TIONS AND THE GRANTING OF INDULGENCES. May 19, 1890. By means of summary prayers. A SUMMARY OF THE MATTER. The collegiate church of the place, Avezzano, which formerly numbered eleven canons, now, through the fault of the administration, consists only of three, besides the parish priest, and these are weakened by illness and old age. Of these, one receives 880 livres, another 872 livres, and the third 600 livres for their respective duties; each, however, draws 124 livres from the common fund. But each is burdened with the obligation of celebrating more functions in a year than they can reasonably fulfill, which causes them concern, since the Fabric [the church endowment] is entirely lacking in revenue. In this state of affairs, these three canons humbly explain: the smaller number of canons has led them to abandon their daily presence in the choir, fulfilling only the quota for the conventual Mass and for those who contribute from Tournon; but by postponing the daily conventual Mass, and the Masses for benefactors and the private Masses of other vacant canonries, they are able to fulfill their obligations. Regarding this matter, and desiring to act according to their own conscience and the needs of the Church, they request: 1. A remission concerning the omission of their daily presence in the choir. 2. A remission concerning all Masses not celebrated. 3. A remission concerning the Masses for benefactors not applied to the vacant canonries. 4. A remission and dispensation concerning the quota of Masses for the vacant canonries. 5. A total dispensation from their presence in the choir, or an indulgence that would reduce it to only feast days; and for the weekdays, an assignment of the number of Masses for benefactors that corresponds to their own turn, which may be celebrated without chanting, and privately. The Bishop, who, during his last visitation of the diocese, authorized the canons to humbly petition the Holy See, commends their "requests and prays that they be heard."

[*Latin ed. p. 120*]

120. Regarding MARSORUM: The matter of requiring canons to reside and be present in the choir, so that they may daily perform their choral service through voice and song, according to the canonical regulations, with the exception only of vacations according to the customary practices of churches, granted to each canon, is a clear matter, and is proven and prescribed by countless constitutions, and by the Council of Trent, Session 24, chapter 12, concerning reforms. Furthermore, it is plainly taught by Benedict XIV in the constitution *Cum semper oblatas*, that the conventual Mass must be celebrated daily, along with other Masses. Moreover, it is fitting that if one or another canon should die, and the number of canons be reduced, the burden of the conventual Mass nonetheless remains in its entirety, as is held in the documents from Terracina, September 5, 1627, and from the Senate, May 12, 1759, and February 9, 1760: and therefore, if

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anyone fails [to fulfill his duty], another shall succeed him and fulfill his place, so that the Holy Sacrifice may never be interrupted for the benefit of the church. The same may perhaps be said regarding the obligations of legates and other Masses offered for benefactors, about which the speakers discuss in numbers 3 and 4, which also seem to affect and burden the entire chapter more than individuals; provided, however, that the speakers have not requested dispensation and absolution concerning those matters pertaining to suppressed and vacant canons, unless such burden would fall more upon the chapter itself than upon individuals. Therefore, it is beyond dispute that the canons of the place Avezzano acted wrongly, when, by their own will and judgment, they interrupted the choral service, and reduced the conventual Masses and other obligations to the current number.

WHAT FAVORS THE PETITIONS. However, although this manner of acting is worthy of condemnation and reprobation, since it was undertaken by arbitrary will, nevertheless, it does not seem such that absolution should not be granted, nor that a suitable provision should not be made.

WHAT OPPOSES THE PETITIONS.

[*Latin ed. p. 121*]

MARSORUM 121. Indeed, there are countless documents demonstrating that, due to the reasons of old age and infirmity, the remission of the choral service is customarily granted by the Sacred Congregation of the Council. It suffices to consult Lucidi, *De visit.* SS. Lim., vol. 1, cap. 3. And if this is permitted in all chapters, it follows with even greater force that it should be allowed in this case, which is closest to a dispensation, and this very circumstance imposes a heavier burden of service on individuals. Furthermore, something must be said about the conventual Mass. For Pope Benedict XIV, in his constitution *Cam semper*, after having thoroughly examined the grave duty of celebrating the conventual Mass daily, thus warns and decrees: "If, however, the path designated by the Council for providing for the needs of the chapter cannot be followed, then it will be necessary to appeal to the Congregation of the Council, to which it will be [left] to determine, etc., whether to reduce the daily celebration of the conventual Mass for the benefit of the benefactors, as in other cases, to only festive days." No other judgment seems to be fitting regarding the burdens of the legates. Indeed, guided by justice and equity, and contrary to what some may say, the Sacred Congregation of the Council has always maintained that, in the case of diminished revenues, there is also room for a reduction of burdens, according to civil law in *II. ult.* ff. *De commod.* JJ. *Quod servias* ff. *De condit.*, *caus.*, *dat.*, and the ecclesiastical canon [in *parochia*, cap. 16, q. 1, with the Glossa in cap. 2 *De rescript.*]. With these premises, the question was raised as to how the prayers should be

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dispensed. RESOLUTION. The Sacred Congregation of the Council, after deliberation on May 10, 1890, decided to respond: "Regarding the grace of healing, both with regard to the past, and with regard to the future, a reduction of the burdens of the legates pertaining to the canonical tithes is granted, according to the prayers made with the Most Holy [Father]; regarding the rest, further information will be requested from the Bishop and the matter will be deferred and investigated."

[*Latin ed. p. 122*]

122 APPENDIX II. In which are included Decrees of the Congregation of Sacred Rites; and by which is made explicit appendix V to be added to the collection completed by Gardellini. LEAVENWORTH. The Most Reverend Lord Lewis Maria Fink, the present Bishop of Leavenworth, humbly submitted the following question to the Congregation of Sacred Rites for a suitable solution: From the decree of the aforementioned Sacred Congregation of September 10, 1880, concerning the Anniversary of the Dedication of the Cathedral and other churches of the Diocese of Leavenworth, it is stated that the Anniversary is to be celebrated each year on the third Sunday of October, according to the rite of a Double of the First Class, with the Octave. The question is asked: Whether it should also be observed with the Octave in those Diocesan churches which have received only a blessing, and not a consecration? And the Sacred Congregation itself, upon the report of the undersigned Secretary, and with the fervent opinion of another of the Masters of the Sacred Ceremonies, considered it fitting to respond to the aforementioned question in this manner: Affirmative, that is to say, it must be celebrated in churches, even those not consecrated, according to the rite of a Double of the First Class with the Octave. And thus it was written and it was commanded to be observed. April 29, 1887. OF THE MOST HOLY CROSS AND PASSION OF OUR LORD JESUS CHRIST. The present Editor of the Calendar for use by the Congregation of the Most Holy Cross and Passion of Our Lord Jesus Christ, at the mandate of the Most Reverend General Superior of the same Congregation, humbly submitted the following questions to the Sacred Congregation of Rites for a suitable solution: Question I. Whether, in the Offices which are performed on the votive feast of the Angels, the Commemoration of Saint Michael the Archangel should be observed in those places where Saint Michael is the titular of the church, and if so, which prayer should be said? Question II. Whether the IX Lesson of the Saint should be recited within the privileged Octave, which admits only Doubles of the 1st and 2nd class? Question III. Whether, when the feast of the Patron of a City or Diocese is celebrated more than once in the year, the Religious are bound to observe all the Offices, or only one? Question

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IV. Whether, when a church is dedicated to Jesus and Mary,

[*Latin ed. p. 123*]

IX. XI. There are two Offices of the Most Holy Name of Mary. And the same Holy Congregation, in response to a communication from the Secretary, and also to a request from one of the Masters of the Ceremonies of the Apostolic See, having considered the matter, decided to respond to the following questions, namely: To I. Negatively. To II. Negatively, if the Office of the same Octave is celebrated within the privileged Octave, or on a Sunday within that Octave. To III. Affirmative to the first part, Negative to the second. To IV. Affirmatively. And thus it responded, and ordered that it be observed. On May 14, 1887, in ROMA. The Roman Liturgical Academy, in one of its meetings, discussed the question of whether the altar on which, on weekdays, the Most Holy Sacrament of the Eucharist is exposed for the public adoration of the faithful, which is commonly called the "Sepulcher," can be said to be and to represent the sepulcher of Christ. The members of the Academy, having considered what is relevant to the matter in the Ceremonial of Bishops, the Roman Missal, and in the Decrees issued by the Congregation for Sacred Rites, unanimously judged that such an altar should be considered and truly represents, not the burial of the Lord, but the institution of the Most Holy Sacrament.

123. It was decided to submit this opinion to the judgment of the Congregation for Sacred Rites, and at the same time to ask it to instruct them as to what should be thought regarding a certain manner of adorning the aforementioned altar, which is in use in some places. Therefore, the aforementioned Academy, through its director and in the name of the members, humbly proposed the following questions to the Holy Congregation:

1. Is the altar on which the Most Holy Sacrament is exposed for public adoration on the Friday of the Greater Week, even if hidden in a *capsa*, representative of the burial of the Lord, or rather of the institution of the same Most Holy Sacrament?

2. When the Decrees of the S. R. C. have named the "sepulcher" or "place of the sepulcher," have they intended to indicate that the altar represents the burial of the Lord, or rather did they intend to use only the common designation?

3. Besides lights and flowers, is it permissible to use a cross with a shroud, or an image of the dead Christ, or silk decorations, statues, paintings, namely of the Most Blessed Virgin, St. John the Evangelist, St. Mary Magdalene, and of the soldiers guarding, trees, and other such things, to adorn the aforementioned altar?

The Holy Congregation, in response to a communication from the Secretary, having carefully considered the matters, and adhering to the Decrees

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already issued in Lauden, on May 21,

[*Latin ed. p. 124*]

APPENDIX I

January 1, 1662, in Alben. August 8, 1835, in Narnien. December 7, 1884, in Salten, and September 26, 1868, also in Salten. After considering the points raised by one of the Masters of the Apostolic Ceremonies in Salten, it was decided to respond as follows: To Question I: Negatively to the first part, affirmatively to the second. To Question II: Negatively to the first part, affirmatively to the second. To Question III: Negatively, and that flowers should not be arranged as if the altar were in a garden. And so it was declared and ordered to be observed.

May 14, 1887, NANNETENSIS. The present Rector of the Gymnasium of Boys of Nantes, located in the city and diocese of Nantes, having explained that a public oratory has been consecrated, attached to the same Gymnasium, under the name of Saint Francis de Sales, Bishop, Confessor, and Doctor of the Church, humbly submits the following questions to the Congregation of Sacred Rites for a suitable resolution, with the consent of the Most Reverend Ordinary, namely:

Question I. Whether Saint Francis de Sales should be considered as the true patron by the clergy of the Gymnasium of Boys of Nantes, with whatever titles they may be associated, and therefore, the oratory should be dedicated in his name, so that the feast day of that saint, the Doctor, should be celebrated by them on the fixed date of January 20, with a solemnity of the first class, with an Octave, and a commemoration should be added both in the common prayers and in the "Oration of All." And to this, an affirmative answer.

Question II. Whether, as has been the custom until now, the solemnity of this feast day can be transferred to the immediately following Sunday, if it is not impeded (and consequently, according to the indult granted by the Most Eminent Cardinal Caprara for the feasts of the Patrons and Titulars), for the students of the Gymnasium, who only attend Mass in groups on Sundays? And to this, an affirmative answer.

Question III. Whether, on the day of the transfer, this Mass of the Saint can also be simply read, since it is not customary to sing Mass before the students?

And the Sacred Congregation, after considering the report of the Secretary, and with the careful opinion of another of the Masters of the Apostolic Ceremonies, after mature deliberation, decided to respond to the questions as follows: To Question I: Affirmative. To Question II: Negative. To Question III: As provided in the preceding. And so it was written.

May 14, 1887, ANCONITANA. The Chapter of the Cathedral Church of

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Ancona implores the Holy Congregation to grant an indult to celebrate the Mass.

[*Latin ed. p. 125*]

"The Conventual Office of Sext is to be sung after None, on all days of precept and on other non-festive days of precept when the Bishop is present. The reason for this is that this arrangement would be less inconvenient for the Canons, who currently have to wait for the Bishop to remove his vestments, and accompany him to his residence, and then return to the choir to recite Sext and None; but especially because delaying the celebration of the Conventual Mass would result in a greater attendance of the faithful. Furthermore, on the feasts of Advent and Lent, the people who come to the sermon, and do not arrive in time to hear Mass, and after the same, must wait for the recitation of Sext and None before the sermon. Therefore, etc." The Sacred Congregation of Rites, in response to the petition of the Secretary, replied in this manner: "Nothing is to be changed, and only a few Canons should accompany the Bishop on his return to his residence. And so it was decided. On June 17, 1887. LUCERNA. There exists in the place commonly called St. Bartholomew in Galdo, within the boundaries of the Diocese of Lucerne, a Sodality of Brothers of the Third Order of St. Francis, canonically established since 1739, number 125, belonging to the Church of the Order of the Minor Reformers, whose Moderators recently appealed to the Apostolic See regarding the right of precedence in processions. Since another Sodality is present there (recently raised to the dignity of an Archconfraternity), called the Most Holy Sacrament and the Immaculate Conception of the Virgin Mary, and duly approved in 1781, which claims the right to such precedence; the Moderators of the Brothers of the Third Order, supported by weighty reasons, and especially by the general Decree of the Sacred Congregation of Rites of May 28 of the previous year, humbly submitted the following question to the same Sacred Congregation: "Does the aforementioned Sodality of the Third Order enjoy precedence in this place over other Archconfraternities and Sodalities and lay Sodalities, or not?" Furthermore, the Sacred Congregation of Rites, in response to the petition of the Secretary, and after hearing the Most Reverend Bishop of Lucerne, and after carefully considering all aspects of the case, decided to reply to the question posed in this manner: "Precedence is to be given to the Brothers of the Third Order." And so it was decided and it was ordered to be observed. On July 4, 1887. PATAVINA. The Most Reverend Joseph Callegari, Bishop of Padua, states in...

[*Latin ed. p. 126*]

APPENDIX I, item 126. To the parochial churches, in order that they may validly use the Misses of the Diocese, it is to be understood that, in funerals, or in certain ecclesiastical feasts, in which lay sodalities partici-

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pate, the aforementioned vexilla (banners) are to be affixed to the temple, even though they are merely civil ones, so that all anxieties of the soul may be removed. The following doubts, expressed in the Italian language, were submitted to the Sacred Congregation:

Sacred Congregation, having carefully considered the following matters submitted by the undersigned Secretary of Apostolic Ceremonies, with great eagerness, it has decided to respond to the following doubts:

I. Is it permissible to admit, in the church, on the occasion of solemnities, funerals, etc., banners which do not belong to religious bodies, but rather to the state, such as those of a municipality, university, gymnasium, institute, etc.?

II. Is it permissible, in the same circumstances, to admit banners of private societies, such as those of veterans of past battles, of volunteers of 1849, of mutual aid societies among members of certain classes of citizens, when such societies hold anti-Catholic sentiments, honor Freemasons, and are in some way connected with Freemasonry?

III. If the answer to the first and second questions is negative, is it permissible for the parish priest to tolerate the presence of such banners in the churches when he requests that they remain outside, and opposes their presence?

And thus, it was written and ordered to be observed:

The Most Reverend and Most Reverend Lord Cardinal William Sanfelice, Archbishop of Naples, proposed the following doubts to the Sacred Congregation:

I. Is it permissible for a Cardinal of the Holy Roman Church to celebrate Mass in Pontifical functions outside of Rome?

[*Latin ed. p. 127*]

I. Whether, outside the limits of his jurisdiction, a priest should frequently visit the sick, and whether, besides the three sacred ministers who attend to the sick with piety before the altar of God, he should have deacons present, adorned and confident, who, having been ordained for all time by the Church, should assist him in his chair or throne, and be a support to him and to the community? Can such a priest be most powerful in repelling the forces of earthly temptations and in preparing the sacred vestments according to the order given by the Most Holy Pope Leo XIII through His Apostolic Letters, especially in the city of Somãa, and can he, by his presence, assist those who are preparing to receive the Sacrament?

II. In such a case, can the clergy and the laity, with sacred vestments, offer assistance according to the order given by the Most Holy Pope Leo XIII through His Apostolic Letters, especially in the city of Somãa, and can he, by his presence, assist those who are preparing to receive the Sacrament?

III. Can a Cardinal of the Holy Roman Church, celebrating Mass or sit-

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ting in the chair or throne, or in any other case, even outside the city of Grado, while wearing his cardinal's robes, be given the same honor as an Ordinary in his own Diocese?

IV. Does the Ordinary of the place have the power to grant such an honor?

And so, in order that the faithful may be united in prayer, the Holy Rosary is celebrated every month, and the Congregation, in joy and fervor, at the request of the Secretary, wrote the following: "They will invoke Mary, who, like an unfailing light, radiates the rays of her mercy, and is accustomed to offer herself as a most pitiable and most merciful intercessor for all, to all in need. And thus, they declared and wrote. On July 14, 1887. And they do not hope for victory from anything more than from the admirable practice of praying the Rosary of the Blessed Virgin Mary, a splendid act of religious worship and a full expression of Christian faith. For the Rosary, with all the mysteries of the Virgin Mother of Christ, encompasses its circuit and revives in the hearts of Christians." (St. Thomas, Bishop of Valentia.)

[*Latin ed. p. 128*]

128. The appeal of the eleventh day [of the month] involves the entire faith. Truly, this is the victory that overcomes the world, our faith (1 John V). Most Blessed Father, greatly rejoicing in these matters, urges all pastors of the Church and all the faithful to persevere with greater piety and confidence in their endeavors, imploring the most august Queen of Peace, that through her grace, she may dispel the terrible storm of present evils, overthrow the dominion of Satan, and restore the mystical ship of Peter, tossed by the enemies of religion, to the desired tranquility. Furthermore, concerning whatever has been decreed in previous years, and most recently by the Decree of the Congregation of Sacred Rites of August 26, 1886, concerning the month of October dedicated to the heavenly Queen of the Rosary, it is again decreed, commanded, and granted. Since the feast day of the most holy Rosary is already celebrated with singular honor and devotion by the people, a devotion that refers to all the mysteries of the life, passion, and glory of Jesus Christ, our Redeemer, and of his immaculate Mother; to foster this growing piety and to increase public veneration, as has already been granted in several particular Churches, the aforementioned feast day and the Office of the Mother of God of the Rosary, assigned for the first Sunday of October, are commanded to be celebrated throughout the Church with the ecclesiastical rite of the second class, so that it cannot be transferred to another day, unless the Office of a higher rite coincides: observing the rubrics. Contrary decrees notwithstanding. Concerning these matters, the present Decree of the aforementioned Congregation of Sacred Rites is to be promulgated. On September 11th of the year 1887, in honor of the most holy Name of Mary, in Basle. "Most Holy Father, Frederick, Bishop of Basle, humbly implores an authentic interpretation of the Apostolic Decree

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concerning the prayers to be recited by the priest after the Mass; namely, the question is: Whether the prescribed prayers (3 Ave, Salve Regina, etc.) may be recited in certain cases, namely, after the completion of some small function or the distribution of Holy Communion, after the ceremonies of the Mass have been completed; or whether they must always immediately follow the Mass? " And the Sacred Congregation of Rites responded to the proposed doubt as follows: The prayers prescribed by the Most Holy Lord Pope Leo XIII are to be recited immediately after the last Gospel. And it responded on November 23, 1887.

[*Latin ed. p. 129*]

129 Letters from the Most Holy Father Leo XIII to the Archbishop of Rhodes, Bishop of Malta: in which he laments the impudent license of certain publications from Malta against their Pastor and the Apostolic See. We have received with great displeasure, as I have already informed you, My Beloved Son, Cardinal, Minister of public affairs, reports of the impudent license of certain writers of publications from Malta, who have dared to insult you, their Pastor, and this Apostolic See with equal severity. No less reprehensible is the audacity that some, seizing an opportunity from certain documents published for the public, which concerned matters of counsel and were treated with undue haste regarding certain ecclesiastical affairs of that island between the Apostolic See and the Government of the Most Serene Queen of England, have dared to present. It is a great sorrow to us that certain opinions, as it were, foreign to Our own, have been able to be offered in writing and thus inflame popular sentiments, which are easily inflamed, so that wicked men, with cunning words, may more easily stir up the envy of the people against those to whom due honor must be given. Clearly, this agitation of souls aims to corrupt what is best and to sever what had been most closely united. We know how much gentleness of spirit and manners there are in the people of Malta, how much zeal for the holy religion that was instilled in them by the presence and voice of the great Apostle, how much nobility of character and deeds, how much devotion to the supreme edifice of truth, and faith. Indeed, from recent testimonies, as we celebrated Our own fiftieth anniversary of the priesthood, we observed the great affection and service of the Maltese people towards Us. Therefore, we embrace them with singular charity, and we strive in every way not only to care for their spiritual well-being, but also to favor their civil affairs so that they may enjoy more prosperous conditions. But the more we love them, the more we are pained by the sight of that bitter weed, sown by the enemy of piety, which spreads like a field of tares among the finest wheat. (Aeta, Tom. XXIII, fase. CCLXVII, 9)

[*Latin ed. p. 130*]

130 Letters, [when written] with a lack of charity, arouse distrust, sow

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discord, distort the truth of events, twist the righteous intentions of men to a perverse end, and thus not only fail to render due obedience to the legitimate authority of the Church, but also inflict injustice and turn away the hearts of the faithful, who are most devoted to ancestral piety. Furthermore, this calumny and deceit of the enemy of man will be sufficiently evident if one considers the custom of the Roman Pontiffs in their dealings, and if one examines what has recently transpired concerning the affairs of the Melitenses [people of Malta] between Ourselves and the Royal Government of Britain. History testifies that the Holy See has always striven, in preparing and conducting negotiations with civil authority, to promote the good and the interests of the people, a fact which has often led to offenses, to the incurring of scorn, to the facing of discrimination, and to the wrath of the powerful. However, whenever matters are discussed that pertain to religion, for whose protection, by the command of God, the Church exercises its primacy and judgment, no worldly cupidity or ambition obscures its purpose, but rather it considers only what is pleasing to God and conducive to the salvation of souls, and what is most beneficial to the public good, to the peace and tranquility of nations. In the same way, We have acted in the negotiations undertaken with the British Government, ensuring that nothing was taken away from the rights and liberties of the Church, but rather that they were more firmly asserted and established; and while certain heads of ecclesiastical discipline, already accepted in practice, were more precisely defined with the consent of both supreme authorities, this action was undertaken for the benefit of all. Indeed, We have also taken care that these measures would be beneficial and appropriate for the young ecclesiastics of Malta, where the ministers of the Church are instituted, whom divine vocation calls to be the light of the world and the salt of the earth. We cannot overlook what the nature of the place itself demands, which brings together both Melitenses and Britons. It is clear to Us that it is necessary to ensure that these young men are educated with a broader and more suitable culture, so that the clergy of this place may more effectively perform their sacred ministry and contribute to the salvation of both the Melitenses and the Britons, with no less dignity in the priesthood than in the authority of teaching. This, however, is not a reason to neglect the diligent cultivation of the native language and other disciplines that befit and adorn ecclesiastical men. Therefore, We strongly urge you, and We are confident that the young clergy, in whom the Church finds a joyful hope, will also...

[*Latin ed. p. 131*]

LETTERS 131: May piety flourish, and may instruction in more serious sciences and good morals make it more illustrious and useful for the fulfillment of the sacred ministry. Moreover, may doctrine and the study of ecclesiastical discipline increase, so that from this flourishing garden, ex-

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cellent ministers of charity and peace, and others, may arise, and may they sustain the expectations which We have for them. Let the clergy be like the faithful and the people, who, strengthened in faith, love concord, obey willingly the legitimate authority, venerate the holy Church, and take care, above all, not to fall away from their own firmness through error, "by the deceit of wicked men who simulate religion, and who, pretending to offer help to the afflicted members of the Church, intend to spread wicked and scandalous rumors, so that they may bring infamy upon those to whom all honor is due, and to destroy the unity which is contained in discipline and obedience." Indeed, We do not doubt that with pastoral zeal and prudence, you will devote all care and effort, so that the clouds which obscure the truth may be dispelled, and so that We may rejoice together in having attained what was desired by both. In the meantime, take as a pledge of Our affection the Apostolic Benediction, which We impart to you, Venerable Brother, to the clergy and to the faithful of your diocese with paternal love. Given in Rome, at St. Peter's, on the 27th of July, in the year 1890, in the thirteenth year of Our pontificate. FROM 8. CONGREGATION OF THE COUNCIL AND THE COLLEGE. PRECEDING DOCUMENT: February 22, 1890. Session 25, chapter 22, concerning Reform. SUMMARY OF FACTS: In the town of Montecorvino Rovella, a few years ago, there were only two sodalities, one called the Most Holy Rosary, which was established in the parish church.

[*Latin ed. p. 132*]

132 ACERNO. There are two churches in this town; one is dedicated to the Virgin Mary, and the other is named after Saint Philip Neri, or also after the Sorrowful Virgin, who had her seat in the chapel of Saint Peter. These two confraternities had long been contending for precedence and antiquity, when the Archbishop of Salerno, Monsignor Salomone, and the administrator of the diocese of Acerno, in order to end these long disputes and restore peace, decreed on July 9, 1868, the following: I. Precedence in processions and other solemn functions shall alternate each year. II. The same arrangement shall be applied to the association for the burial of the dead, whenever both confraternities are invited by the family of the deceased... III. The year shall begin on the first day of January 1869, with precedence given to the confraternity of the Blessed Virgin Mary, Sorrowful; and on the first day of January 1870, precedence shall be given to the confraternity of the Most Holy Rosary, and so on alternately in the future. IV. Any confraternity that acts contrary to the provisions of this decree shall, by that very act, be suspended from any spiritual office. It is not entirely clear how matters proceeded between the two confraternities after this decree; however, it is certain that after a few years, when some of the faithful of the same town wished to establish or restore a third confraternity under the invocation of the Most Holy Body of Christ in the church of Saint Eustachius, disputes

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and dissensions again flared up, more intensely than before, due to the rivalry for precedence. This new confraternity claimed to have succeeded to the rights of an older confraternity of the same name, and for this reason, it claimed that it should precede both other confraternities; and the conflict grew so much that on the feast of the Body of Christ, the civil authorities had to intervene and prohibit the religious procession. These matters being brought to the attention of the Archbishop, he invited each confraternity to present its claims in the metropolitan court; and after this, on April 10, 1888, he issued a decree in which he ordered that the provisions established by Archbishop Salomone regarding the confraternities of the Rosary and of Saint Philip Neri should be observed, as far as:

[*Latin ed. p. 133*]

ACERNEN. 133. The confraternity of the Most Holy Body of Christ, according to the decree of Pope Gregory XIII, cannot claim precedence over the other two confraternities, because these have held a place of honor in sacred functions and processions from time immemorial; whereas the confraternity of the Most Holy Body of Christ, only a few years ago, began to participate in processions, that is, from the time when it re-established itself after having abandoned such participation for a very long time. However, the confraternity of the Most Holy Body of Christ has the right to precede in processions in which the Most Holy Sacrament is carried, provided that it undertakes to participate in other processions as well, in which case it must grant precedence to the aforementioned confraternities. Furthermore, the confraternities of the Most Holy Rosary and of Saint Philip Neri received this new decree with equal minds, and were prepared to comply with it. But it was not so with the members of the Most Holy Sacrament; indeed, they appealed to the Sacred Congregation; while at the same time, the Ordinary urged that the matter be resolved more quickly, especially since peace seemed to have been restored, and on the feast day of the holy Apostles Peter and Paul, numerous members of the three confraternities were present and content with the places assigned to them by a decree of April 10th. Therefore, it was decreed that the matter be put on record, and that the parties be reminded of the established custom. But as soon as the confraternities of the Most Holy Rosary and of Saint Philip Neri learned that the third confraternity had brought the matter before the Sacred Congregation, they did not remain within the bounds of the originally intended dispute, nor were they content simply to assert their precedence against the confraternity of the Most Holy Sacrament; but, with the hope of a greater victory, each decided to assert its rights and claimed precedence over all the others. Therefore, a decree was issued regarding these matters as well, stating that the three confraternities should be united, and thus, in the present circumstances, the three are present, each contending for greater precedence. But in this matter, something singular occurred: the

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confraternity of the Most Holy Sacrament, which had initiated the dispute, refrained from choosing a special patron; while the other two confraternities appointed a representative to appear before the Sacred Congregation.

[*Latin ed. p. 134*]

134 ACERNO. A Synopsis of the Dispute. The confraternity of the Most Holy Sacrament, besides the initial document of its founding, has presented nothing further in its defense. In this document, it states that, according to a certain papal bull, dated May 9, 1559, a sodality dedicated to the Most Holy Body of Christ already existed in the church of St. Eustachius, and that this sodality was subsequently enriched with various privileges by Pope Paul III. Shortly thereafter, according to a bull of the General Procurator of the Order of Preachers, dated October 22, 1576, a sodality of the Most Holy Rosary was also established in the same church. However, both sodalities were soon united into a single body, as evidenced by a bull of the Bishop of Acerno, dated October 6, 1591, and by letters from Cardinal Fabrizi, prefect of the papal Sacred Congregation, dated July 3, 1713. This united sodality, bearing both its names, existed until the end of the last century, as confirmed by two decrees issued by the mixed Concordat Tribunal, in which mention is made of the sodality of the Most Holy Sacrament and the Most Holy Rosary, established in the parish church of St. Eustachius. These decrees are dated July 3, 1766, and May 7, 1788. The members then contend that, at the beginning of this century, the sodality gradually disappeared due to the confiscation of its assets; but at the same time, they argue that, since it was restored through the piety of the parish priest and the faithful from the year 1881, it should be considered as succeeding or being supplemented by the ancient sodality. It may be objected that this is the case; for, according to the well-known saying, one cannot enforce a right against one who is not capable of exercising it; therefore, prescription does not apply. THE RIGHTS OF THE SODALITY OF THE MOST HOLY SACRAMENT. Furthermore, they argue, according to the constitution *Exposcit* of Gregory XIII, it is stipulated that among sodalities, those that have used the *sacca* [a type of ecclesiastical vestment] should precede those that have not; and that they themselves have worn the *sacca*; therefore, none of them can claim an origin prior to the 16th century; and therefore, they conclude, they should precede the others. Thus, in summary, the members of the Most Holy Sacrament. However, how much of this is to be believed remains to be judged by the Most Reverend Fathers.

[*Latin ed. p. 135*]

ACERNEN. 13S nire. Although it is true that what is said concerning the origin and development of the ancient sodality of the Most Holy Sacrament and the Rosary may be entirely true; nevertheless, there are more matters

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at stake concerning the new or restored sodality of the Most Holy Body of Christ. Indeed, in Dianen, the minutes of the meeting of March 27, 1886, and of the second meeting of the same year (1), the Sacred Congregation of Rites rejected a certain sodality of the Rosary, which, having once been dissolved and then restored, claimed the right of precedence over another sodality of the Sorrowful Virgin, which had arisen in the intervening time. And rightly so; for if any society is dissolved, it retains no further rights. For nothing that does not exist possesses any qualities, nor can non-existent things enjoy any right, be it of prescription or any other kind. In the matter of the absolute dissolution of the sodality, there is no room for doubt; for those concerned admit this entirely. And it is also known that "a society is dissolved by the disappearance of its members, its property, its will, or its actions: therefore, whether it be men, or things, or will, or actions that disappear, the society seems to be dissolved." L. Verum est 63, § 10 ff. Concerning the member; see L. societatem 4 and L. Actione 65; ff. in the same title, as well as Inst. De societ. § 4 seq. However, the ancient sodality of the Most Holy Body of Christ has not been dissolved by any one of these means, but by all of them together. Furthermore, the new sodality did not arise exactly as the ancient one did, but with a slightly altered or diminished name. Finally, the principle which our members derive from the Constitution of Gregory XIII is not precise. Indeed, what the Pope decreed was: "We decree that whoever of the aforementioned confraternities, among whom disputes and causes have arisen, or may arise in the future, on account of precedence, and who are considered to be in quasi-possession of precedence and the right to precede, must, with all reclamations postponed, precede in public and private processions." (1) Reported in Vol. XIX, 319.

[*Latin ed. p. 136*]

136 ACERNEN. Concerning such matters, it is decreed that, among confraternities, among themselves disputing, those who first made use of the [sacred] vessels, in both public and private processions, ought to precede. Therefore, the Archbishop seems to have justly excluded members of such a confraternity from the right of precedence, except in the case of the exposition of the Most Holy Sacrament; for then, according to the special dispositions of the sacred canons, it is certainly provided that the confraternity ought to precede the others in the procession, according to its own, as they say, strength. Ferraris, *v. con frater*, art. 6, nos. 10 and following. Lucidi, *De visit.*, vol. 2, new edition, p. 408. And this pertains to the confraternity of the Most Holy Sacrament. But a greater controversy exists between two other congregations, namely, the Congregation of the Rosary and the Congregation of Saint Philip. Each claims the first place for itself, not only against the confraternity of the Most Holy Body, which is indeed considered almost uncontroversial, but also against another com-

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peting congregation.

RIGHTS OF THE CONGREGATION OF SAINT PHILIP. Firstly, the members of the Congregation of Saint Philip recall that their origin is from a pontifical bull of the year 1640, immediately endowed with royal approval. And although, subsequently, they have often and more fiercely had to contend with the confraternity of the Rosary regarding precedence and other rights; nevertheless, they have ultimately achieved victory over the opposing confraternity. Indeed, after the concordat of the year 1818 between the Holy See, the King of Sicily, and the subsequent civil authority on March 21, 1818, with regard to confraternities in that kingdom, this law was in force, namely, that those confraternities could not subsist unless they had obtained the approval of the Government, or at least the so-called "sanction"; moreover, that the congregation among several should be preferred which had first obtained royal approval regarding its foundation and rules; and that no agreement entered into between confraternities should have any force, but that judgment in these questions concerning precedence and other matters should definitively belong to the Government. However, in the controversies between the two confraternities, the Government decreed on July 8, 1857: precedence...

[*Latin ed. p. 137*]

ACERNO. In the year 137, the Sodalitas of Saint Philip Neri was established, and it obtained civil approval in the year 1760, while the Sodalitas of the Rosary obtained approval in the year 1762. Subsequently, the Sodalitas of the Rosary, although it has rarely participated in processions, nevertheless, whenever it has been present, has always occupied the place assigned to it by a decree of the Government in the year 1857, as several inhabitants of Montecorvino testify. Therefore, the decision of the Government, by which the Sodalitas of the Rosary was assigned a lower place, appears to have been accepted and to have become a settled matter. And since a settled matter is to be considered as true, according to L. 208 ff. De reg. ius., and "whatever it has decided is to be presumed to be true and just; and it cannot be undermined in any way by an indirect means," according to the decision of the Sacred Congregation, in the case of Perugia, September 3, 1829, in the pontificate of Pius VII, § 8; it follows that the Sodalitas of the Rosary cannot oppose the settled matter, nor can it presume to occupy the first place. It may be objected that the agreement of the year 1818 is no longer in force, but the advocate responds with the Sacred Rota in the case of Ancona, January 16, 1818, in the pontificate of Pius VII, § 12: "It is forbidden to a judge to apply new laws to matters already concluded, which can only serve as a rule for the future, as can be seen in L. 3 of the Code of Theodosius, De const. princ., i. 7 of the Code of Laws." And it may also be objected that the decree of the year 1868, issued by the Archbishop Salomone, which established an alternative between the two sodalities, is

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not in force, and that the current Archbishop of Salerno has confirmed this. Indeed, it can be doubted whether the Archbishop Salomone had the authority to go against the Concordat and to decree something else. Furthermore, the controversial decree was not promulgated or published, and moreover, it was not even accepted. Several inhabitants of Montecorvino assert this: the decree exists because it was read by some, but it was never communicated to the parties involved, and for a period of 19 years, it was never observed. However, the essence of any law is its promulgation.

[*Latin ed. p. 138*]

138 ACERNEN. Regarding the matter, as Saint Alphonsus observes in *De Actionibus Humanis*, n. 96, and likewise, a law, not accepted by the majority and healthier part of the people, does not obligate by reason of tacit or express consent of the superior, as the same Saint Alphonsus cites, I. n. 138, and Gury, vol. 1, chap. 4, n. 99, rightly observe; for although those who preceded and did not accept the law may have sinned, others are nonetheless blameless because of the presumed consent of the superior. "However, for the effect of non-acceptance, it is said to suffice a period of ten years," as Ferraris states, *v. Lex*, art. 2, n. 14, "after which has elapsed, it has place against it [the law], and it no longer obligates, whether it be a civil law or a canon law." Since, in the matter at hand, nineteen years have passed without observance of the law, it seems entirely prescribed. This is further argued by the proponent in the matter under consideration. Indeed, with regard to precedence, it is to be maintained that those who are in a quasi-possession of precedence are to be upheld, notwithstanding any subsequent claims. This, indeed, was decreed by Gregory XIII, cited above, in the Constitution *Exposcit*, and all the Most Reverend Fathers retain and confirm this. However, the proponent continues, in this matter, this quasi-possession is not lacking to the sodality of Saint Philip, and is confirmed by the testimony of the same citizens. Finally, the sodality of Saint Philip is most deserving of claiming the first place, because the sodality of Saint Philip was canonically erected by a papal Bull in the year 1640, as evidenced by the documents; while, according to the proponent, the congregation of the Rosary is merely a lay association, and lacks canonical erection.

RIGHTS OF THE ROSARY SODALITY. The sodality of the Rosary, in turn, through its procurator, recalls that, six centuries ago, namely from the year 1274, when the mother church and collegiate church of Saint Peter was erected, it derives its origin, as clearly evidenced by the records of the chapter. This ancient origin is to be attributed to the fact that the instrument of canonical erection of the sodality may have been lost. Furthermore, the canonical foundation of the sodality can be well supported and confirmed by equivalent documents. Indeed, it is known from the records of the sodality that on April 5, 1638, the sodality was assembled in the mother church

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of Saint Peter before Bishop Galbiato.

[*Latin ed. p. 139*]

ACERNA. 139: It has been ascertained that the confraternity of the Rosary and the election of officials took place; furthermore, we know that in the year 1692, the Bishop appointed certain individuals to review all the affairs of the pious community of Montecorvino, and specifically the administration of the confraternity of the Most Holy Rosary. And other similar documents exist for the years 1612 and 1703. Therefore, the advocate believes that there is no reason to doubt the ancient and canonical erection of the confraternity. Moreover, royal approval was not lacking; indeed, members of the Rosary confraternity reported that, a few months after the congregation of Saint Philip had obtained it, on March 31, 1762. This, according to the same advocate, should rather serve as a warning to others, rather than a reproach for a supposed lack of canonical erection; for such a defect could indeed be alleged. However, the document presented as the "bulla of erection" appears to be entirely different from the constitution of a religious confraternity. It is inscribed as "the bulla of erection of the oratory of Saint Philip Neri, granted to those of this city of Montecorvino, with indulgences granted to the confraters." Perhaps for these reasons, after lengthy discussions, a convention was held on February 15, 1761, before the notary Budetta, between the two confraternities, whereby the property and assets of the Rosary confraternity were transferred. Indeed, the advocate continues, a few years after such a convention, the confraternity of Saint Philip was completely dissolved, and was not restored until after the year 1820. Furthermore, the advocate continues, from this dissolution, the Rosary confraternity completely lost any rights it may have had; hence it is clearly understood how much injustice civil authority committed in 1858 by placing this new confraternity before the old and most ancient Rosary confraternity. Moreover, it is also found that Archbishop Salomone, when he ratified the alternative with a decree on July 9, 1868, did not fully render justice to the Rosary confraternity. However, if, despite this, the Rosary confraternity accepted that decree, as well as another recently issued by the current Archbishop, it was only out of obedience.

[*Latin ed. p. 140*]

140. CONCERNING the Ordinary and with a desire for peace and harmony, the association affirms that it has acted. However, in the present circumstances, when the question of precedence in determining legal procedures arises, the association maintains that it has a right to absolute and complete precedence. The rule, which is not without authority in these matters, is that "he who is first in time has greater right" from chapter 54 of the *Iurisprudentia in VI*, with the common opinion of the Doctors.

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Furthermore, it is added that the Constitution of Clement XIII, and other resolutions of the Holy See, which the speaker enumerates and explains, have definitively established this principle, that precedence among associations should be granted to those who have used the title first, or who are in a state of quasi-possession of it. Both of these circumstances, according to the aforementioned, the advocate argues favor his association. Having considered these points, the purpose was to resolve the doubt: Whether and to whom precedence belongs in this case.

RESOLUTION. The Sacred Congregation, having knowledge of the matter on February 22, 1890, decided to respond: Affirmative, according to the form of the archiepiscopal decree of April 10, 1888.

BONONIAN MARRIAGE. On May 10, 1890, Session 23, chapter 18, Concerning Reforms. On May 30, 1865, Count Anthony Zucchini, twenty-eight years of age, was lawfully married to Countess Anne Gozzadina Gozzadini, who was also twenty-eight years of age. The couple lived together for five years; however, it is not easily said with what fortune; for some assert that they were happy and harmonious from the beginning; while others maintain the contrary. However, whatever may be the case, it is proven.

COMPENDIUM OF THE FACTS.

[*Latin ed. p. 141*]

BONONIEN. 14. That after five years, or on May 1st, 1870, while the man was in Florencia, his wife fled with a certain lover, abandoning the marital home, and went to Paris. Upon learning of this, Anthony, in order to avert the disgrace that threatened his name, petitioned the civil authorities for a judicial separation from his wife, and easily obtained it on June 27th, 1870. From that day forward, both parties lived separately, and peace between them could never be restored; indeed, with the passage of time, mutual aversion towards each other grew for various reasons. Meanwhile, in 1882, Anthony's father died, and subsequently, Gozzadina's parents also died. Then, on May 9th, 1889, the Count Anthony, having presented a supplicating petition, accused his marriage, which had been entered into under duress and coercion from his father, and requested that the Sacred Congregation of the Holy Office declare him free from this bond, after a prior process was completed in the court of Bologna. The immediate response was to the Most Reverend Archbishop, instructing him to ensure that the process be carried out; and upon its completion, the case was brought before the Sacred Congregation, following the customary procedure.

A SYNOPTIC DISCUSSION: DEFENSE OF THE MAN. The advocate, whom the plaintiff had chosen, first draws the attention of the Most Eminent and Reverend Fathers to the manner in which the wife conducted herself during the course of the proceedings. For it is found that she initially

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presented an exception before the Archbishop, as a means of declining the jurisdiction, as if the ecclesiastical tribunal were not competent to hear cases concerning marriage. Then, however, she appeared before the judge, but declared "that she was not appearing as a plaintiff, nor to contest the case, but only as a witness, requested by the defender of the bond." After this, in defense of the validity of the marriage against the plaintiff, she presented witnesses; and finally, she appointed a special advocate for herself before the Sacred Congregation, openly defending the validity of the marriage through him. Truly, the plaintiff's advocate laments that Gozzadina's conduct, which is so abnormal and harmful to her, is also causing great distress to the court of Bologna and to the bond itself.

[*Latin ed. p. 142*]

142 BONONIEN. He permitted and approved this defense. Furthermore, he adds that the judge himself provides a clear testimony regarding the defender's excessive zeal in upholding the marriage and in handling the affairs of the Gozzadini family. Indeed, on one day, when the judge was pressing the questioning more vigorously, the judge ordered that the following note be inserted into the records: "The defender's words in his last question, as recently stated, are entirely gratuitous, indeed suggestive, and therefore both the question and the answer should be considered of no value." However, despite the defender's excessive zeal in upholding the marriage, there are abundant arguments that demonstrate the nullity of the sacrament, the advocate argues, if one pays attention to the circumstances in which the marriage was initiated. - Anthony's father was unaware of all that was being arranged for him, and he had always wanted something else, as several witnesses testify. This was especially true in the matter of the marriage. For, according to the testimony of the companion Massei, it was customary in the Zucchini family for the care of arranging marriages to be entrusted to the parents rather than to the children, and Anthony's father himself had experienced a similar misfortune; hence, it is not surprising that he did not object, but rather wished to inflict upon others what he himself had endured. Furthermore, the Count of Caietano was harsh and severe towards his son, as many testify. And the son was so accustomed to absolute obedience that he had never dared to contradict or oppose his father's will. Given this condition and nature of the father and son, it happened that Ferdinand Zucchini, one of the Count of Caietano's nephews, found himself in such a difficult financial and business situation that the Count of Caietano had to incur debt and provide a guarantee to his nephew in order to help him. The extent of this debt cannot be determined today, says the advocate; however, the plaintiff admits that the debt exceeded one hundred and fifty thousand nummi. And the witnesses add that at that time, the Count of Caietano was so deeply distressed by the domestic

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situation that he was even unwilling to contract a small loan in Bologna.

[*Latin ed. p. 143*]

BONONIEN. 143 arrived. And from this, he seemed to have fallen into such anxiety that he appeared to fear something far more serious than the situation warranted, and to expect domestic ruin. Furthermore, the Gozzadini family was among his creditors, and, as one of the witnesses states, Count Caietan had been able to extinguish his debts only with the help of the Gozzadini family. For this reason, the marriage of his only son to the only child of the Gozzadini family seemed to be the best solution. Conversely, the Counts Gozzadini wished to marry their daughter as soon as possible, because, according to one witness and another, there was considerable talk in the city about her, who seemed to indulge in the pleasures of her age to an excessive degree. The young Count Anthony, who had recently left college, had been seen at that time, and had pleased them; therefore, they asked Princess Simonetti to arrange the marriage, as the Princess herself states. The Princess of the Gozzadini family approved of the marriage proposals; and thus, the marriage was arranged between the parents of the children. However, Anthony had, for some time, been courting another noble young woman, who was distinguished by her beauty, although not endowed with great wealth, as Princess Simonetti, Canon Bonucci, Anthony's tutor, and several other witnesses, including his own sister Laura, all state in unison. Therefore, as soon as his father proposed a marriage for his son that was different from the one he had previously arranged, the young man, contrary to everyone's expectations, resisted his father as much as he could. But, according to Aloysius Grandi, the Count Anthony's servant, Canon Bonucci, the tutor, and the servant Peter Melossi, his efforts and his resistance to his father's will were ultimately unsuccessful. Moreover, Philip Brunetti, Princess Simonetti, and Josepha Zucchini Monti recall that there were quarrels between the two betrothed, and that these were instigated by Anthony, in order to, at least in this way, prevent the marriage from taking place. But there is even more: and threats followed the commands. The witnesses Joseph Zucchini, the servant Melotti, Constantia Zucchini, Canon Bonucci, and Doctor Brunetti testify that Count Caietan had been disinherited.

[*Latin ed. p. 144*]

144 BONONIEN. He states that he, and others of this kind, often made such threats, both before and after the marriage, to the son. And these threats were not empty, for the Count Massei testified that his father was accustomed to demand execution of such threats. This is also confirmed by Doctor Brunetti. Thus far, these are the events preceding the marriage. But since, in a case of fear and coercion, even those events that accompanied or followed the marriage are highly relevant, the actor's advocate recounts

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the following facts, namely that, as testified by the canon Bonucci, Anthony, on the day of the wedding, as he was proceeding to the Church, seriously exclaimed: "Let us go to Bergamo." And Mary Morelli, after stating that her father had long ago attempted to dissuade Count Caietan from his intention to marry, but in vain, adds that the same father, on the day of the wedding, while conversing with a certain advocate Agnoli during a meal, uttered these words: "We will celebrate the outcome." Finally, after the wedding, it is not necessary to repeat what happened; however, it is worth remembering that the physical union was rare, even at the beginning, and occurred only out of necessity and duty: this necessity lasted only a short time. This is evident both from Anthony's testimony and from Gozzadina's confession. This fact, even if other evidence were lacking, would suffice to demonstrate and confirm that a deep estrangement existed between the spouses from the very beginning. Furthermore, there are witnesses who noted and testified in the records that there was not a strong affection between Anthony and Gozzadina, which is usually present among newlyweds, and that Gozzadina often complained about Anthony's coldness. This is the state of affairs. In law, the advocate points out that "for a marriage to be valid and perfect, a greater and more complete consent is required."

[*Latin ed. p. 145*]

BONONIA. 145, concerning contracts entered into under duress, according to *Si quis*, question 2, paragraph 13. It is stated that "where fear is instilled, and there is an interest in celebrating a contract, only reverential fear is considered sufficient to rescind the contract," according to Barbosa, volume 2, chapter 16, number 30. This conclusion is all the more valid because the aforementioned man was threatening another woman... for "to desire to marry another woman is to not desire to marry the aforementioned Eleanor." This is according to the same Barbosa, chapter 14, with the agreement of the Rota Ludovisi, decision 326, number 8. Furthermore, in the case at hand, Count Zucchini was threatening another girl, Laura Malvezzi, and desired to marry her. Moreover, according to the aforementioned Rota, location cited above, number 13, "the great indignation that the father conceived must also be considered... because he did not wish to obey his will, and this indignation greatly contributes to the instilling of fear." Indeed, according to Sánchez De Matrimonio, book 1, chapter 4, paragraph 6, number 14, this constituted a fear that was constantly present in the mind of the man. "For who," he says, "is a steadfast or prudent man who would not consider it a grave evil to always have an offended father before his eyes?" And if to this paternal indignation are added threats concerning the son, threatening to cast him out without assistance and to disinherit him; if, furthermore, it is considered that in these mutual disputes, the father's voice was constantly directed at the son with the words

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"ti accomoderò io" (regarding which Joseph Zucchini and four other witnesses unanimously testify); then the patron concludes that force and coercion cannot be doubted, and consequently, the nullity of the marriage contract cannot be denied. It may even be said that the son could not, without the least risk, be deprived of the substantial inheritance left to him by his mother. For in the first place, the father could at least have deprived him of that inheritance; and, according to what has been said, this would have been sufficient to instill great fear. Furthermore, Count Caietanus had placed the entire estate of the deceased wife in a pile, together with his own goods; and the son, who was not yet four years old, to whom not everything pertaining to the administration of the goods was well understood, could, from this very fact, fear more from the paternal threats. However, "a marriage begun under fear is invalid," according to *Acta, Tom. XXIII*, page COLXVIL 10.

[*Latin ed. p. 146*]

146 BONONIEN. "The deprivation of liberty, the loss of office, a serious loss of property, or unjust vexation, inflicted to extort consent to marriage," teaches Schmalzgrueber, volume 4, page 1, title 1, section 493. And the loss of a greater part of one's possessions, or even the deprivation of a great profit, induces a grave fear "which causes the steadfast man to fall," as the Rota declares in its decision 870, number 3. However, even if the aforementioned points were not sufficient to prove violence against the son, there remains, finally, the father's own painful confession. For as soon as he learned of Gozzadina's flight, he seemed to awaken from a dream, recognized his error, and, as soon as he approached his son, he cried out: "Wretched son of mine, to what ruin have I brought you!" Or, as others say: "Spare me, Anthony: I alone am the cause of your ruin." And afterwards, when speaking with friends about this sad matter, he lamented: "Unhappy Anthony! I myself have ruined him." Surely, no one can fail to see how important these words are; therefore, the advocate maintains that the truth of the coercion can be ascertained not only from the witnesses, but also from the father's own confession. To dispel these difficulties, the advocate then argues that the patron first objects that his client was accustomed to visit the house of the Gozzadinis frequently before the marriage, to meet with the young woman, and to spend time there in a loving and pleasant manner, as one or two of the witnesses testify, and as some letters of Gozzadina's mother describe. The advocate responds that this was done at the father's command, and that therefore, given the circumstances, whatever was done for that reason cannot be attributed to free will. Barbosa I., cited, number 87 and following. Furthermore, the witness Panimollio declares in decision 102, year 1, page 375: "Proof of spontaneous will is almost impossible; therefore, more credence is given to two witnesses testifying of fear, than to a thousand testifying of spontaneous will." The advocate also

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argues that the father's fear should be considered, if Anthony, when asked by the priest in the preliminary marriage ceremony whether he freely and spontaneously consented to the marriage, answered affirmatively.

[*Latin ed. p. 147*]

BONONIA. 147. After the marriage, matters concerning the joy of the spouses – such as the presence of Count Alvise da Schio, and Calzoni, and anyone else – must also be considered necessary, and nothing should be omitted. For, as the Sacred Rota decreed in Decree 392, section *ad cautelam*, case Ladovisi, number 3, if fear persists, no union, no semblance of a joyful and pleasant spirit can be observed. Regarding the letters found in the records, in which the mutual love of the spouses and their desire for a blessed union are extolled, the actor's advocate responds that these do not properly concern the letters themselves, but rather the act of writing them; and the judge from Bononia, when receiving these, noted in the records: "Professor Cappellini presented 15 fragments of letters written to him by the Countess Theresia (mother of Gozzadina)." Furthermore, it is impossible to form a complete and certain judgment about the meaning of these fragments. Moreover, it remains uncertain whether these are authentic; and in such a diligent effort to defend the marriage, when the opposing party is so flagrant, everything must be feared. Finally, in response to the objection regarding the late introduction of the cause, the advocate argues that his client, while his father was still alive, was afraid to bring him to court, to accuse him of violence, and to make him a defendant; both out of reverence, and out of fear, and out of love; indeed, he did not even consider it. But after his father's death, he abstained from introducing the cause for several years, lest he inflict yet another grievous blow upon the already deeply afflicted Gozzadina. However, since the marriage was manifestly entered into through violence and fear, and furthermore, the spouses were divided in spirit and in their conjugal life, living separately, the advocate argued that the nullity of the marriage cannot be erased or purged by the passage of time. Therefore, he concludes that this objection is also completely unfounded. DEFENSE OF THE WOMAN. Nevertheless, on the other hand, it was observed that, in order to defend the validity of the marriage against the actor, the defender is fighting from a sense of duty arising from the bond itself, while the advocate for Gozzadina is acting out of a particular and personal choice; and although they employ their own distinct resources and are prepared in different ways, they nonetheless aim at the same goal, and with the same...

[*Latin ed. p. 148*]

148 BONONIEN. Furthermore, they present and urge arguments in a substantial manner. Therefore, it is sufficient and more than sufficient to briefly summarize these arguments. Firstly, the defender finds nothing to

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reproach if Gozzadina is present at the current trial: for she is present, because the judge summoned her; and the judge summoned her, because she is the wife. And if, from the beginning, she may have made a slight error, it does not, therefore, seem that she has been excused from exercising her right, or rather, from fulfilling her duty. Having considered this objection, and about to investigate the cause of the fear, they recall that, according to Sánchez De matr. lib. 4, disp. 12, n. 13, "in this matter, there is a certain most certain conclusion among all, namely, that whenever fear is not induced to extort marriage, whether it arises from a natural or free cause, however serious it may be, it does not invalidate the marriage." Indeed, only one of the witnesses presented by Anthony was examined, namely Peter Melossi, Anthony's servant, who testified, of his own knowledge, about the cruelties that Father Anthony had committed, in order to induce the marriage. Another of Anthony's servants, namely Aloysius Grandi, was also a witness, and repeated what he had heard from Peter. Furthermore, both the defender of the sacrament and Gozzadina's advocate observe that the testimonies of these servants must be received with great caution: firstly, because they are servants; but moreover, their words appear so contrived and composed, that it seems that the servants are trying to say one thing and mean another; and in the meantime, they raise a doubt that cannot be ignored, as to whether the expulsion of the son from the family home actually occurred for the purpose of the marriage. One says, "he could argue, etc.," while the other adds that, from the beginning, the cause of the disagreement was unknown to him. However, it is not proper to disregard these things; for the priest Bonucci, Anthony's instructor, and friend of the Count of Caietan, when asked whether the Count of Caietan had used violence to force his son to enter into marriage with Gozzadina, replied that there had indeed been violence, but that he completely ignored whether it had been intended by the father to force his son to marry.

[*Latin ed. p. 149*]

BONONIA. 149. Anthony was being pressured to marry Gozzadina. Indeed, he added that Anthony, for reasons of no great importance, had been thrown out of the house by his father. Therefore, the son was not ejected from the family meal for the purpose of preventing a marriage, but rather for reasons of education. Philip Brunetti also recounts this, and although he is a witness brought forward by the plaintiff, he nevertheless confessed, to the best of his knowledge, that he did not believe that the father had used threats and violence with the intention of, as it were, compelling his son to marry Gozzadina. And he further undermined the case by denying that the son had been induced by his father to enter into such a marriage. If, therefore, one were to ask how it happened that the father directed so many and such serious threats towards his only son, Gozzadina's advocate provides the answer, namely, because this son, being more indulgent to

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his pleasures, was often forced to resort to loan agreements. And this can be deduced not only from the testimony of Countess Gozzadina, but also from the testimony of Count Massei, who is very devoted to the plaintiff, who stated that Anthony was accustomed to borrowing money. But finally, what fully confirms that the father's threats towards his son regarding the marriage with Gozzadina were in no way direct, is the fact that all those who have heard about these threats and the discord between father and son, almost all add that they also heard the same threats, the same reproaches from the father to the son, even after the marriage had begun. This, indeed, is what Canon Bonucci, the plaintiff's friend, his former tutor, and now a witness brought forward by him, states. This very thing is also asserted by Countess Malvasia, Anthony's cousin. This very thing, finally, is confirmed by Philip Brunetti for the sake of truth. Furthermore, the defender of the marriage argues that there is clear evidence of Anthony's spontaneous and free will in entering into this marriage, a fact that Gozzadina describes in detail, stating that he had been present before his mother on Holy Saturday. Moreover, the defender continues, the fact, supported by so many minute circumstances, is that *merum* [Marum] was found and a lie was told.

[*Latin ed. p. 150*]

150 BONONIENSI. He does not dare to speak of a fabrication; indeed, he himself is found to falter in this matter, and, while diligently refraining from any response, he seems almost to confess the fact. He states that the statements of Professor Salvini, Count Dante de Serego Alighieri, and Professor de Meis, should be understood in the same sense, namely, that they assert that they saw the betrothed, before the marriage, in great familiarity, and so happy that they appeared to be blessed; but also that the statements of the bride's mother, written to a cousin shortly after the betrothal, should be understood in the same sense; for it is clear that the betrothed were suffering greatly from the postponement of the marriage until the month of September, and, through prayer, they obtained from their parents that it be celebrated in the latter part of the month of May. Finally, he argues that the confession made by Anthony on May 6th should also be understood in the same sense. For, according to the custom prevailing in the church of Bologna, the betrothed are usually subjected to an examination before the publication of the banns, and their words are recorded in writing: Anthony, in the absence of his father, was called by the parish priest, among other things, whether he had been compelled, directly or indirectly, to enter into marriage with Gozzadina? Anthony replied that he was taking her as his wife of his own free will. Indeed, what is more, when the same parish priest, now a Bishop, was questioned in court as to whether he had observed any sign of hesitation or reluctance in Anthony while giving this response, he testified that Anthony had shown no sign of hesitation or reluctance. Moreover, the parish priest, not only observed no hesitation or

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repugnance, but, when Anthony spoke of the future, he noticed nothing; but he adds that he observed nothing when, in the solemn act of celebrating the marriage, Anthony spoke in the present tense; and although he himself was present at the celebration of the marriage, he suggested the words that are usually used to elicit consent from the betrothed, which were delegated to the priest. But not only from the circumstances preceding the marriage, not only from the circumstances accompanying it, but also from the consequences, the advocate asserts that it is clear that Anthony entered into the marriage of his own free will, and indeed with a willing heart.

[*Latin ed. p. 151*]

BOLOGNESE. 151 [units of currency]. Since it is clear from letters written at a time of no suspicion, both by the bride's mother, or by her brother, or by the professor Cappellini, and from the testimonies of the count Frederick de Serego Alighieri and his brother Dante, as well as from those of Alvisi da Schio, the professor Salvini, and the knight Calzoni, that the newlyweds undoubtedly displayed signs of joy, benevolence, and love towards each other constantly and everywhere. Indeed, the professor Salvini testified that the groom, Anthony, desired nothing more than that his wife should rejoice and be happy, and that she should surpass other noble women in virtue and adornment, and that he himself was exceedingly delighted by this. However, when considering the matter of coercion, it is also necessary to consider what is alleged to be the cause of this coercion; and since it is stated in the indictment that Anthony's father arranged these nuptials for his son primarily because he hoped that they would alleviate and provide a safeguard for his own economic condition, which was already in a precarious state, the defenders of the defendant and the patron of Gozzadina noted that the actor's own lawyer admitted that "the extent of this sum cannot be determined today"; and the actor himself testified that he knew nothing of the true amount of the debt, but believed that it exceeded 150,000 livres. But even admitting this debt, it is nevertheless asserted by Doctor Brunetti, and confirmed by the lawyer and administrator Pancaldi, that the Count Zucchini could not have been overwhelmed by it. Furthermore, the Count Caietan Zucchini could not have been in fear for his affairs, because, in addition to his own patrimony, dowry, and the goods of his deceased wife, which were estimated at 600 or 800,000 livres, according to the testimony of Pancaldi, Brunetti, and others, he had available to him. But all of these things were said by the orators under the assumption that the debt of the Count actually amounted to 150,000 livres. However, the knight Alphonsus Calzoni and Angelus Capuri asserted that the Count's debt was only 5,000 scudi, and not 150,000 livres. - It is pleasing to see these men devoted to the service of Gozzadina. For the avenger of the sacrament remembers that they are not servants, but administrators, in whose service they were first appointed

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and for many years in the Zucchini family. But further on in the matter.

[*Latin ed. p. 152*]

152 BONONIEN. They are praised by their parishes for their zeal and integrity, and they are called upon to provide evidence in public matters. Therefore, both orators conclude that the precise and detailed testimony provided by them should be preferred over the uncertain assertions of others, which appear to be carefully fabricated. After these remarks, both proceed to present certain details of the facts and to refute the opposing arguments. First of all, they examine the threats of disinheritance, and whether these threats, as the opposing side claims, were actually made to Anthony. Indeed, Dr. Brunetti states that Count Anthony did not deny that he had a legal claim to the inheritance of the estate of *materna*. And the advocate Pancaldi adds that half of the simple property of the estate belonged to Anthony while his father was alive, and that its value amounted to 800,000 *lire*. Furthermore, the words spoken by the actor's father when he first saw his son after the scandalous flight of Gozzadina, and other similar statements, are questioned by the defender of the sacrament; for Canon Bonucci confesses that he knows nothing about these matters, which is all the more surprising, given his close friendship with Count Caietano, who could not have been ignorant of such things. These matters concerning the delay in establishing the cause, so that the son would not offend the living father, are entirely inconsistent with what Anthony himself recounts, namely that his father had instructed him until his death to seek the dissolution of this marriage from ecclesiastical authority; nor are they consistent with the fact, which Dr. Brunetti confirms with others, that the father himself had sought the dissolution of the marriage from ecclesiastical authority, but failed, because he had not presented a just reason. Furthermore, the defender of the bond requests that certain words from the process be brought to the attention of the Most Excellent Lords. For from these words, it becomes clear that Anthony constituted a canonical cause for the dissolution of the marriage due to a disparity of condition between the spouses, and that an ecclesiastical trial on this matter had been contemplated. But the learned man...

[*Latin ed. p. 153*]

BONONIA. 153. Concerning the disparity of character between spouses, it was determined that this does not necessarily render a marriage null. A document was presented, stating that Anthony had not entered into the marriage with Gozzadina freely and spontaneously, but had been compelled by his father. Regarding Anthony's words: "Andiamo pure a prendere questa zuccata," the defender of the marriage offers this explanation: these words were uttered by Anthony in response to the condemnation of Canon Bonucci, because the aforementioned Canon had, from the very

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beginning, shown himself to be opposed to this marriage with Gozzadina, and had spoken of it as a source of sorrow. Finally, concerning the statements made about Anthony's affection for Laura Malvezzi, it is argued that these do not present a true difficulty, for it is well known how easily young people are swayed from one affection to another. Similarly, the prediction made by the lawyer Pancaldi regarding the outcome of the marriage on the very day of the wedding, is not attributed to coercion, but to other causes, namely, to the perceived character of the girl and other similar factors. After considering these points, both in fact and in law, the intention was to clarify the following question (Dubia A.71) concerning the nullity of the marriage.

RESOLUTION. The Holy Council, after careful consideration of all the matters presented, decided on May 10, 1890, to respond: Negatively.

FROM WHICH WE DEDUCE:

I. That two witnesses who testify out of fear are more deserving of credence than a thousand who testify of their own free will, because the proof of free will is almost impossible.

II. That a greater and more perfect act of free will is required for marriage than for other civil contracts.

III. And that, if necessity arises from fear, whatever is done for that reason cannot be attributed to freedom.

IV. Therefore, if the presumption of fear persists, no...

[*Latin ed. p. 154*]

154. BONO.NIEN. cannot perceive any semblance of a joyful and pleasant disposition. V. The great indignation of the father towards the son, because he was unwilling to obey his will, or the fear of losing a large portion of his property, or even the deprivation of a great advantage, can greatly disturb a steadfast man, and therefore render the marriage invalid. VI. However, fear, even if it is very serious, whether it arises from a natural cause or a free one, does not render the marriage invalid, as long as it is not demonstrated that it was imposed in order to induce the marriage. VII. In this case, the marriage was validly repudiated because it was not demonstrated that the fear was instilled by the father, and that the threats of disinheritance pronounced against the son were directed towards inducing the marriage. FOROIULIEN. AND NICIEN. OR AQUEN. (1) The LEGATES, on the 29th of Mary, 1890, Session 25, Chapter 5, Concerning Reforms. This case is presented again for the third time. It was initially proposed on December 15, 1888, under the doubt: whether the sentence of the Arbitrators of the Aquensis Court, or the *otius* legate, to which reference is made, should be assigned to the Seminary of Nice in this case. The following response was given: "Having delivered 15 obligations to the Ordinary of Nice for the endowment of the parish of Briançonnet, the remaining

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obligations remain with the Seminary of Foroiulien, with the obligation of paying 400 *libellae* annually to the Seminary of Nice, whenever there are students present in the Seminary of Nice, one or more from the Seminary of Grasse, according to the intention of the testator." The question was again raised, focusing primarily on the meaning of the aforementioned passage.

COMPENDIUM OF THE FACTS. (1) See Volume XXII, 3, where this question was described in detail.

[*Latin ed. p. 155*]

FOROIULIEN. ETC. 155. Regarding a written decision to be determined, on September 7, 1889, concerning the question: whether and how the decision of December 15, 1888, should be understood; namely, whether the students of the seminary of Grasse should be preferred above all other students, or rather, whether, in the absence of those from Grasse, nothing should be owed. The Sacred Congregation of the Holy Office responded: Negatively to the first part, affirmatively to the second. Burdened by this resolution, the Bishop of Nice, through his advocate, requested a new hearing within a reasonable time. And then, after a few days, he presented a new petition, in which he declared that he had not appealed the first resolution of the Sacred Congregation because he believed it to have a different meaning, and the Sacred Congregation declared on September 7 that it had considered this. Having understood the mind of the Most Eminent Fathers, it was determined that it was not so much a matter of interpretation as of the very first sentence which had been declared to imply such a meaning, and therefore, he should petition for the annulment of both resolutions, namely, the decree of December 15, 1888, and the subsequent interpretation of September 7, 1889, to be admitted together. Regarding these new petitions, the written response was: "Let the cited parties be heard, but the matter shall be reserved for the full Congregation." Newly presented arguments were presented to the Most Reverend Fathers, and the question was to be clarified: Whether one should adhere to or depart from the decisions in this case. RESOLUTION. The Sacred Congregation, after a third discussion on March 29, 1889, decided to respond: To depart from the decisions in the first and second instances, and to return the matter to the Bishop of Nice.

[*Latin ed. p. 156*]

PARISIAN MARRIAGE. On June 15, 1890. Session 24, chapter 1, concerning reforms. On July 2, 1886, in the church of Saint Vincent of Paul, in Paris, Paul Gosselin and Dyonisia Millet entered into a lawful marriage. As some assert, Paul did not consent to this marriage of his own free will, but rather to comply with the wishes of his elderly and infirm father. The spouses were of nearly the same age, but not of the same character: for the man, as is unanimously reported, was deeply devoted to piety and the interior

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life, and whatever is pleasing to the vanities of the world, to luxury, and to the vanities of the world, he turned away from with all his heart; the woman, on the contrary, did not abhor these things, and sometimes even delighted in indulging in them. Under these circumstances, the spouses lived together for a year and a half in Dyonisia's parents' home, sharing the same room and bed; yet, the love, benevolence, and mutual affection of their hearts never diminished. Indeed, they recount and affirm under oath that they never exercised their marital rights; and the man adds that this is to be attributed to him, who, with firm resolve of mind, had determined to abstain from his wife for this very reason, and he steadfastly observed this. Meanwhile, discord grew greater each day between the man and the woman; the man seemed to be seeking an opportunity to leave; indeed, he left abruptly twice, and did not return to his wife, unless first through the intervention of his mother, and then of Monsieur Sartiaux. Finally, on May 1, 1889, he bid farewell to his wife and departed, and never returned. Then Dyonisia and her parents petitioned for a civil divorce, which they obtained; and subsequently they appealed to the Most Holy [See], requesting that the sacramental marriage, which was valid but not consummated, be benignly dispensed with. The Most Holy [See] ordered that the process be presented to the Parisian Tribunal according to custom, and that, after it was completed and transmitted to the Sacred Congregation, the case be examined by the Sacred Congregation for Causes, under the usual doubt which is read at the bottom of this page. SUMMARY OF THE FACTS.

[*Latin ed. p. 157*]

PARISIAN. 157. It suffices to recall that both parties to the marriage were subjected to a judicial examination, and that their parents, as well as other relatives and friends, were heard; then, the physical examination of the wife was undertaken, and after it was completed, two expert physicians rendered a judgment more favorable than unfavorable to the lack of consummation; however, due to the wife's health, the bath, which is usually performed before the examination, was omitted; finally, in the records, in addition to the judgment of the expert judicial assessors, the opinions of two other physicians were also recorded, both supporting the integrity of the woman and the lack of consummation of the marriage, one of which was written by Dr. Brouardel during the proceedings for a civil divorce, and the other by the wife's family physician.

A SYNOPTIC DISCUSSION: DEFENSE OF THE WOMAN. Thus, the advocate for the woman, who is the plaintiff, while the husband remains passive in the case, in order to demonstrate the lack of consummation of the marriage, recalls the sworn testimonies of the spouses, if they are consistent, if they come from reputable, religious, and trustworthy persons, and if they are supported by the testimony of seven witnesses, which are of such value that, according to chapter "Laudablem," of "De frigid," and

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male f. "Litterae Vestrae" 7 and "Super eo" 5 "De eo qui cognovit etc.," and according to the Holy See's pronouncements in "Tergestina Matrimonii" of December 16, 1876, and April 21, 1877, in "Viennen, Dispens. Matrim." of December 15, 1877, and March 23, 1878, in "Parisien. Matrimonii" of March 28, 1857, and in others, they are sufficient to induce moral and legal conviction regarding the lack of consummation of the marriage, and to obtain a dispensation, even without a physical test of virginity (1).

The husband, first, says: "As long as I remained at home, I slept in the same bed as my wife. There was no conjugal act; we never spoke about this; my wife was well-educated." But he added: "However, our characters are very different (1)."

(1) See Vol. X, 376, where the "Tergestina Matrimonii" is located; and Vol. XI, 134, where the "Viennen, Matrim." is mentioned.

[*Latin ed. p. 158*]

158. PARISIEN. They were present, but I was not inclined to fulfill my marital duty, and I abstained from it. And the woman, on her part, requested nothing. Therefore, I maintain that I did not consummate the marriage, and the fault is mine, because I never sought nor provoked the consummation of the marriage. The woman speaks with the same sentiment: there was never any attempt... Therefore, he did not will it. After eighteen days from the marriage, he told me that he had been compelled by his parents to enter into this marriage. He also said that, by not consummating the marriage, he was consulting his conscience. With these words, the husband not only defends the lack of consummation, but also gives reasons for why it happened, so that throughout the entire period of their mutual cohabitation, they never came together. Indeed, the woman's modesty was an obstacle, and from the beginning, there was also a certain ignorance of marital matters: for Dionysia, as she herself stated, and as her parents confirmed, had not been instructed about these things before the marriage; furthermore, there was a firm intention on the part of the man not to use the marital rights; this intention, strengthened from the very beginning of the marriage by a lack of inclination towards his wife, and increased day by day due to the increasingly evident differences in their characters, clearly explains the fact that, in other matters, and especially at that age, such a thing does not usually happen easily. Furthermore, the confession of the lack of consummation of the marriage is attested, not only in court, but even before, at a time when there was no suspicion. For, three months after the marriage, the mother heard from her daughter's mouth that nothing had yet been done, and that the girl still preserved her virginity. Elizabeth Ploque, the bride's friend, also testifies the same. This woman says that her sister had received similar intimate revelations from Dionysia. Aloysia Dupuy, the husband's mother, heard her son, the man in question, say on the very day that the sacred vessels were removed from the altar, that

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he had never engaged in marital relations. And finally, Charles Yatin, the patron of the same man, also testified the same thing.

[*Latin ed. p. 159*]

PARISIAN. 159 Furthermore, a consistent and harmonious testimony from these witnesses, both in court and beforehand, during a time when suspicion was not present, claims greater authority for itself, if piety and honesty are considered in the matter of their testimony. Regarding the man, it is not necessary to speak, since he is Emus. The Ordinary testifies: "The young man is exceedingly religious and worthy of commendation." And Albert Sartiaux, a man of great standing, indeed related to Dyonisia, but for many years a superior and friend of Paul Gosselin, concludes as follows: "I confirm that everything he says is true." Nor is the testimony of the woman less important; for she too, as a woman of honesty, piety, and worthy faith, is attested to by the parish priest, Father Vincent de Paul, by her father-in-law, by the bride's mother, and by others in general. Indeed, even though the husband, although he reproaches his wife for a certain inclination towards worldly matters, otherwise permissible, nevertheless he had to admit: "My wife was excellently educated." Therefore, two elements are present by which the testimony of the witnesses can be believed: namely, the consistent and harmonious assertion of the witnesses, and their piety and integrity. And a third element is not lacking, namely, the support of numerous witnesses. For all those who were questioned in court, with one voice, either from the perceived honesty of the witnesses, or from the known history of the events, or from both reasons combined, testified that they believed what the parties recounted to be true. And thus, the advocate concludes that the moral argument against consummation is established by all the evidence. Nor does he believe that physical evidence is lacking. For, after examining Dyonisia's body, two judicial experts concluded that she was in a state of perfect virginity. It cannot be objected that the bath was omitted. For Dyonisia's health and her chronic throat ailment required that she abstain from this rite, as her family physician advised, and the experts found this to be justified. Furthermore, judicial experts declared that, even if this means were omitted, they could still judge the woman's integrity and the lack of consummation in this case. And the Sacred Congregation of the Office teaches in its instruction that the bath should be used "if it is deemed necessary by the physician."

[*Latin ed. p. 160*]

160. PARISIAN. Furthermore, the advocate believes that the examination having been directly conducted by physicians does not cause harm. For what the law requires to be done by midwives pertains more to modesty than to the knowledge of facts and truth; otherwise, the Sacred Congregation has repeatedly approved examinations conducted by physicians, as

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can be seen in another Parisian case, dated April 1, 1887. (1) Therefore, the advocate believes that the opinions of experts can be safely upheld; even more so because they are in agreement with the judgment of Dr. De Lavaur, the family physician of the Millet family, who, before the beginning of the cause, examined Dionysia's body and declared that Dionysia Gosselin exhibited all the signs of virginity; but most importantly, because they are in conformity with the opinion of the esteemed Dr. Brouardel, who, in his report presented to the civil court in the divorce case, testified that the same woman had not been defiled. Since it is accepted within the established school of anatomy that the signs of virginity are certain and cannot deceive the eyes of experts, and since it is known, as stated in Zacchia, *Questiones Medicae Leges*, book 4, title 2, question 8, that "of a hundred women having the circular membrane of virginity, or hymen, scarcely one is defiled; on the contrary, of a hundred women lacking the sign of virginity, scarcely one can be found to be a virgin," – the advocate concludes that there is no legitimate reason to doubt that Dionysia is still a virgin, and that her marriage is merely valid. To this end, having established the foundation for the dispensation as required, the advocate proceeds to present the reasons for the dispensation. And among the reasons, he first mentions the excessive zeal of the man for piety and for celibacy: hence, Advocate Pluche was surprised that he entered into marriage, believing that he would thereby embrace a religious state. The same is felt by others; such as D. Sartiaux, Aloysia Vatin, Elizabeth, and Ploque. Indeed, "he declared that he intended to live a celibate life in the future," as the Archbishop mentions in his letters. However, it is permissible to renounce a better state in order to enter into a valid marriage. (1) Consult Vol. XX, 71.

[*Latin ed. p. 161*]

PARISIAN. Another cause is the aversion of the hearts, born from the diversity of temperaments, and increased by the prolonged denial of the consummation of the marriage. And for these, there is, indeed, no hope of remedy, either because the same distance in morals and studies always remains between the man and the woman, or because a civil divorce has already intervened between them, or finally, because Dionysia is devoted to other affections in the present, and other nuptials are already being prepared for her. Therefore, both the parents and friends of the betrothed unanimously declare that reconciliation between them is now impossible. Therefore, the dispensation from marriage would not only contribute to the greater good of the man and to improving his condition, but also to the spiritual salvation of the wife, and to removing the dangers of incontinence from her. Furthermore, even apart from these considerations, for this one reason alone, namely, to avoid the eternal detriment to which one of the contracting parties is exposed, and to prevent scandals, a valid marriage can be dissolved, as Sánchez De Matr. teaches in book 2, dispensation 16,

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paragraph 1, and as the Sacred Congregation itself teaches in many cases, as can be seen in the Neapolitan Matrimonii of June 26, 1858, and in others. Finally, it also contributes to making the dispensation easier to obtain, that the man himself is eager to obtain it, as testified by the Most Reverend Parisian Archpriest, in his report to the Sacred Congregation: "Therefore, with the greatest joy, Paulus Gosselin heard that freedom had been granted to the woman whom he had placed in such a miserable state."

OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. On the other hand, the defender of the bond first of all points out that the lack of consummation does not legally constitute an impediment; for one of two expert physicians, Dr. Ferrand, testified as follows: "The simple examination allows us to conclude that her configuration (the hymen) is such that the act of marriage would not be absolutely impossible in the current state, and without causing any more apparent defloration." And the other, Bucquoy, concluded: "From these facts, it results that the penetration of a foreign body into the vagina." (Acta, Volume XXIII, page CCLXVII, line 11).

[*Latin ed. p. 162*]

162 PARISIEN. "It is possible, and indeed, with some rigor, a male member of mediocre size could be introduced without tearing the hymen." And although, notwithstanding this, two physicians declare and maintain that Dionysia is still a virgin and that the marriage has not been consummated; nevertheless, since this judgment of theirs appears to be based on no certain reason, and indeed contradicts the possibility of consummation asserted by those very same physicians just before, it seems to merit little consideration. This must be held even more firmly if one considers that the two physicians did not offer their judgment on the matter of virginity in an absolute manner, but rather tentatively, as Dr. Ferrand stated, "Il y a tout lieu de penser" [There is every reason to think], and Dr. Bucquoy continued, "Il ne semble pas que cette introduction ait eu lieu" [It does not seem that this introduction took place]. Furthermore, the two experts omitted to consider and report other things that are usually considered in determining virginity, about which Zacchia speaks extensively in book 4, title 2, question 1; they only observed the hymen. Moreover, it is abnormal that two men examined the woman's body, while the law and decency require that this be done by midwives. And finally, setting aside everything else, what is most offensive is that the two physicians examined the woman's body together; from which arises the greatest possibility of collusion, and the testimony of the physicians does not appear to be double, but rather one and as if delivered by a single person; and therefore, even the first and most important precaution for revealing the truth, which arises from the comparison of two distinct testimonies, is lost. Therefore, the defender argues that the judgment of the experts is of no value whatsoever in proving the lack of consummation of the marriage. Similarly, the expertise of

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Dr. Brouardel and another physician, who cares for the plaintiff's family, should also be held in low regard. For, besides the fact that their examination was not judicial, their report is entirely vague. Therefore, the defender concludes that no certain physical argument for the lack of consummation can be presented. Nor is it to be valued morally. If it is permissible for two spouses...

[*Latin ed. p. 163*]

PARISIEN. 163. If they are dissimilar in temperament, they are nevertheless most eager and in complete agreement in seeking the dissolution of their marriage; hence, they are suspected of collusion. In this case, it is taught that their unanimous testimony should be given little weight, as Sánchez de matr. lib. 2 disp. 45 n. 33, Menochius De arbitr. iudic. lib. 2 c. 2 eas. 103 n. 8, and Schmalzgrueber tit. 15 lib. 4 n. 69 state: "Indeed, a confession is of no benefit to those who are confessing." Nor does this great defect seem to be remedied by the testimony of seven witnesses; for, except for one or two witnesses, all the others have declared that they know nothing of the intimate relations of the betrothed, nor have they heard anything suspicious at a relevant time. One witness is Dionysia's mother, who testified that she learned of the matter during the betrothal, but since she is the mother of the defendant, she herself is a suspect witness. Moreover, even if the consummation of the marriage were fully demonstrated, since the sacrament of marriage is not usually, nor can it be, dissolved by the Pope without just cause, and since, according to the defender of the marriage, such causes are lacking in this case, therefore, he concludes that the defendant must be absolved. However, the only reason that can be put forward for this, and to which all the others are reduced, is the discord between the betrothed and their different temperaments. Hence, the resumption of the marriage, hence the dissensions, and finally, the divorce. But, the defender argues, this discord would have ceased, and Dionysia's temperament would have gradually become compatible with her husband's temperament, if the wife had been influenced by the unfortunate influence of her parents, which the husband once attempted, and in which he was successful, were it not that Dionysia's mother again intervened and succeeded. Furthermore, the defender concludes, if the wife's dissent from her husband is voluntary and not supported by any serious reason, this behavior should not be tolerated, but rather the defendant should be reminded of the evangelical precept of St. Paul in 1 Corinthians, chapter 7, verses 10 and following: "I give you this command, not I, but the Lord: that a wife should not separate from her husband. But if she does separate, she should either remain unmarried or be reconciled with her husband. For the wife

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is bound to her husband as long as both live."

[*Latin ed. p. 164*]

164. PARISIEN. Having noted these matters, the question to be resolved was whether to grant dispensation from a valid, but unconsummated, marriage in a particular case. RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter on June 14, 1890, decided to respond: Affirmative. LEOPOLIBN. REGARDING THE SUSPENSION AND DEPRIVATION OF A PARISH. On June 14, 1890, Session 21, Chapter 6, Concerning Reforms. SUMMARY OF THE CASE. Stanislaus Stojatowski, still a young man, entered the Society of Jesus and, after being accepted among its members, spent thirteen years there and was ordained to the priesthood. In the year 1875, having passed his fifth year of age, he requested and obtained permission to leave, and to come to his place of birth, Leopoli, to assist his father, who was infirm, reduced to poverty, and burdened with a large family. He was dismissed from the Society, as attested by Father Kautny on June 11, 1875: "Reverend Stanislaus Stoiatowski excelled in love and devotion to pious exercises, with great diligence, and also with not inconsiderable facility in writing and preaching the word of God. However, he lacked some virtues necessary for a religious man, namely poverty, obedience, and prudence in undertakings, which he undertook not infrequently without the knowledge and consent of his superiors." Stanislaus, immediately upon leaving the Society of Jesus, came to Leopoli, and while hoping to be granted some ecclesiastical or pastoral office, also in order that his livelihood might be increased so that he might live safely and honorably, he obtained first the office of vicar in the town of Grodecensi, and then in Leopoli. When, in the year 1879, or 1880, the parish of Kulikow remained without a pastor, Stanislaus

[*Latin ed. p. 165*]

LEOPOLIENSI. 165. He obtained a lay patronage. There, however, adverse difficulties arose, which he recounted, appealing to the Holy See. In his suppliant letter, Stanislaus states that certain men, consumed by envy, had found a wicked woman who accused him of immoral conduct. Stanislaus approached the Ordinary and immediately requested that a judicial inquiry be conducted. "The accuser," he said, "is brought to give testimony under oath, and by a wondrous disposition of God, she is snatched from the living a few days later by sudden death." Great consternation ensued! The investigation into the accusations presented within a few days absolved him; it was declared to me that the accusation made by the deceased woman, after hearing other witnesses as well, was found to be devoid of truth. The Ordinary also mentions this matter repeatedly in his lengthy report, recalling the dishonorable reports that, at that time, accused Stanislaus of having been intimate with a certain Mary Skazowa, the wife

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of a man residing in Lviv, who, along with her children, frequently visited Kulikowia and spent long periods there, confiding openly with the parish priest. Shortly thereafter, through a canonical visitation instituted by order of the Ordinary, by the dean of the ecclesiastical district of Zothievia, further irregularities were discovered in the administration of the parish, and in particular, the continued familiarity with Mary Skazowa. Subsequently, on February 21, 1882, letters were sent to Stanislaus, in which he was reminded of his duties, and spiritual exercises were prescribed for him for six days. He appealed to the Archbishop of Olmütz, the delegate as the judge of second instance for the archdiocese of Lviv; but being rejected, he continued to refuse to obey; until, in March of the following year, 1883, he finally complied with the prescribed spiritual exercises, under threat of indefinite suspension. In the year 1884, when he insulted a certain Lewis Doschly during a religious assembly, he was brought to justice and, by the secular judge, sentenced to four days in prison.

[*Latin ed. p. 166*]

166. In Leopoli, he was born. However, through the grace of the Emperor, upon the recommendation of the Ordinary, he escaped this punishment and instead, a fine of 200 florins was imposed upon him. In the year 1885, not having become wiser, he ordered, for reasons which are not clear, that a stone of memory dedicated to the deceased Matthias Sobota be removed from the wall of the church. The Sobota family, indignant, brought the pastor before the civil court. The court fined the pastor either with 300 florins or imprisonment for 30 days. The pastor resisted the punishment, but did not return the stone. The Sobota family appealed to the Ordinary. And here, through repeated letters dated March 3rd, April 17th, September 20th, and finally November 29th, 1887, under the threat of suspension, he ordered that the stone be returned within 30 days. But the pastor still did not yield; and the Curia, despite this and despite fatal delays, remained silent. However, at the beginning of the year 1878, the same archiepiscopal Curia severely rebuked Stanislaus on several counts, whereupon he immediately demanded that a strict judicial investigation be conducted. But the Curia did not deem it appropriate to proceed with this request at that time. The true and already severe judgment against the pastor was now imminent. Indeed, for various reasons, the pastor's debts, of foreign origin, had gradually increased to such an extent that, according to the testimony of the Ordinary, they reached 20,000 florins, or 45,000 guilders. Therefore, at the urging of a certain lawyer, a meeting of creditors was convened by the court on April 28th, 1888, and the pastor was declared bankrupt. Immediately upon the court's decree, Stanislaus appealed to the appellate court in Vindobona; but before Vindobona could respond, in Leopoli, more severe judgments were being passed against the pastor. On May 24th, the General Vicar and Auxiliary Bishop, named Puzyna, came to Kulikowia to conduct

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a visitation; and after hearing and discovering several irregularities, he deemed it necessary to issue a decree. "We suspend you from office, and we hereby announce and declare your suspension, until we decide otherwise, with reservation."

[*Latin ed. p. 167*]

LEOPOLIEN. 167 We are justly entitled to proceed against you with more severe penalties, should you dare to celebrate Mass in this manner, to preach, to administer the Sacraments, and to perform other parochial duties while under suspension. In the meantime, the care of souls will be provided for by the Reverend Ladislaus Haidukiewicz, cooperator to the parish church of the Latin rite in Kulikow. This decree was immediately announced by the Vicar himself to the entire congregation in the parochial church of Kulikow, and everywhere else. For this reason, Stanislaus, terrified, immediately set out for Leopoli, intending to speak with the Archbishop; however, he was not received. He wrote letters requesting forgiveness and absolution, and promising that he would remove the cause of suspicion by dismissing the servant girl Magdalena; but this circumstance, which the accused confesses, is not mentioned in the decree of suspension. At the end of June, Stanislaus, having returned to his homeland in Vindobona, was long and anxiously apprehensive, fearing that, according to the laws of the empire, he might be sent to prison until the matter was concluded. Then, on August 12th, the Ordinary issued a decree instituting a judicial process against the parish priest, which was transmitted to the administrator of the Kulikow parish, in order that he might inform Stanislaus. In the meantime, and before this happened, it so occurred that the priest was absent from Kulikow, and on August 15th, on the feast of the Assumption of the Blessed Virgin Mary, he celebrated Mass. According to Stanislaus, there were approximately three hundred people present in the church; twenty or thirty near the altar; Stanislaus was present, but under suspension; however, suddenly, overcome by a desire, he dared to celebrate Mass before them, and even to hear the confessions of some, and to administer the Holy Sacrament. On August 23rd, as had been arranged, the commissary, assessor, and clerk returned to Kulikow, and went to Stanislaus's house in order to subject him to a judicial investigation. The parish priest declared that he would answer no questions put to him by the commissary.

[*Latin ed. p. 168*]

168 LEOPOLIEN. As he asserted, he had immediately submitted an appeal to the Holy See. Upon receiving this, the commissary judge immediately left the parochial residence, went to the municipal office, and there summoned several witnesses, whom he interrogated. The court notified the parish priest on August 29th, stating that the appeal submitted by him

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to the Holy See, both regarding the judgments rendered and the exception and exclusion presented to the Holy See concerning the jurisdiction of the archiepiscopal court in matters pertaining to him, were frivolous and not founded in canon law, and therefore would not be considered. A new decree was issued, ordering a judicial investigation against him, with the express warning that if he did not appear on September 4th, the date of which he was duly informed, or if, upon appearing, he refused to answer the questions proposed by the delegated commissary, he would be declared contumacious, and treated accordingly, in accordance with the laws. However, on September 4th, as the commissary judge, along with the assessor and the clerk Kulikow, arrived to begin the investigation in Kulikow, Stanislaus went to a neighboring village and did not return until the officials of the court had departed. Under these circumstances, on September 6th, the court formally declared the parish priest Stoiatowski contumacious, appointed a defender ex officio for him, and notified the parish priest of this, while also warning him that he was not exempt from the law. It was then determined that the judicial investigation should not take place in Kulikow, but rather in the archiepiscopal court itself, and therefore the witnesses should be summoned there. During the course of the proceedings, it happened that the parish priest was reported to be ill; and according to civil law, he was placed under confinement. Meanwhile, the civil proceedings were completed, in which the curate...

[*Latin ed. p. 169*]

LEOPOLIEN. He was accused of the crimes of malversation, fraud, perjury, and negligent administration; but he was only convicted of the crime of misappropriation of funds. For this reason, he was condemned to imprisonment for 35 days; but, with the help of a bond of one thousand florins, he was released from prison, pending the judgment, because the treasury had appealed to the higher civil court. Considering the parochian's release, the Bishop considered that the time had come to finally conclude the judgment against the parochian. Therefore, the proceedings were resumed, and the defender was heard ex officio, then the fiscal prosecutor, and finally, the Archbishop himself, surrounded by a commissary judge, the general vicar, and others, after hearing what was presented from various sources, decided that the parochian should be removed from office, on September 16, 1889, for the following crimes: for negligent or improper administration of the sacraments in his parish, for the ruinous administration of the benefice, for the improper application of pious offerings, for dishonest conduct with women and concubinage, for violation of the suspension, for the illicit repetition of Mass at times, for the defamation and subsequent disgrace of the parochian, and finally, for irreverence and injurious libels written against the Ordinary, and especially against the general vicar. He was also condemned to perform, at his own expense, spiritual exercises, or retreats, for

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six weeks, in the cloister of the Conventual Minor Friars; after which, if properly completed, he would be absolved from the censure of suspension. The parochian appealed to the Most Holy [See], with the necessary letters.

A SYNOPTIC DISCUSSION: DEFENSE OF THE CURIA. As clearly appears from the words of the sentence, in this judgment of deprivation of the parish, the decree of suspension, originally imposed against the parochian, is at least implicitly ratified and renewed. Indeed, not only is the violation of the suspension mentioned among the motives for the deprivation, but in addition, in the dispositive part of the sentence, it is added that Stanislaus will not be relieved of the penalty of suspension unless "after..."

[*Latin ed. p. 170*]

170 LEOPOLIEN. Spirituali exercitationes, seu recollectiones, per sex hebdomas habuit. Cum haec stant, et cum praeterea parochus, ab initio, contra suspensionem sibi infligendam reclamavit, et vicissim Curia iustitiam huius provisionis defendit, non erit, in hoc puncto, res quae non aliquid specialiter recolere mereatur. Primum, favor Curiae et decreta ab ea, ut patet ex sententia communi apud Reiffenstuel, tit. 39, lib. 5, num. 12 et 24, et apud Emo D'Annibale, Summ. t. 1, De censuris, etc., suspensio, qua censura ad frangendam contumaciam, monitionibus praeviis, iure ferri potest. Atque tamen parochus Stojatowski, quamvis saepe et saepe monitus, pervicax perseveravit, et lapidem Mathiae Sobotha suo loco restituere obstinate recusavit. Ideo Vicarius generalis, ad hanc contumacem inobedientiam frangendam et corrigendam, eum ab officio suspendere, sicut decreto diei 24 Maii 1888 fecit, iure merito poterat. Imo, mirabile est quod Vicarius ad hanc unam provisionem defluisset, nec ulterius processisset. Siquidem cum iam die 24 Novembris 1887 Ordinarius eidem parocho lapidem restitui iussaverat « sub poena suspensionis, nisi intra 30 dies ab die rescripti recepti computandos '», hinc Vicarius generalis obviter et tutius poterat ab omni negotio se expedire, declarando eundem parochum in suspensionis censuram iamdiu et a pluribus mensibus irretitum esse, imo et addere, eundem ob violatam suspensionis censuram irregulärem esse factum. Quapropter, iuxta haec, parochus magis quam se gravatum hac censura dolere, contentus esse deberet se poena iusto minore fuisse multatimi. Hoc quidem, relate ad suspensionis decretum. Relate vero ad privationis paroeciae sententiam, eo minus insurgere forte potest parochus, si meritum causae inspiciatur, idest crimina quorum arguitur, sive forma iudicii et processus ordo spectetur. Desunt quidem authentica inquisitionis acta; adest tamen eorum compendium: quod cum ab Archipraesul in sua ad S. C. C. relationem confectum sit, magna profecto gaudet.

[*Latin ed. p. 171*]

LEOPOLIEN. 171 by authority. And first, in this report, is presented whatever has been ascertained by sworn witnesses and those deemed

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trustworthy, concerning the abuses and negligences of this parish priest in the administration of the sacraments, that is, in the administration of the sacrament of Penance, the Eucharist, and Baptism. After these matters have been presented, which the witnesses testified concerning the abuses of the parish priest Stanislaus Stoiatowski regarding the administration of the sacraments of Baptism, Penance, and the Eucharist, are mentioned the violations of laws, whether of common or particular law, for which the parish priest Stanislaus Stoiatowski has declared himself guilty, concerning many marriages contracted by his parishioners. The Archbishop notes that the books in which the publication of banns and the celebration of marriages are recorded are poorly kept, and that the inscription of names is done so negligently that sometimes it cannot be ascertained who is the one who comes under a certain name, and that the father's name and the name of the bride have been omitted not once. He says this is especially grave, because, according to the laws of the Empire, a reason would be provided to challenge the validity of a marriage in the civil forum. Finally, he adds that he found the same parish priest to have made publications of marriages on the third day of Pentecost and on November 2nd. The grievances brought against the aforementioned parish priest concerning the exercise of divine worship, the Prelate says, pertain either to the ordinary or the extraordinary exercise of divine worship. With regard to the ordinary exercise of divine worship, all the examined witnesses, with one voice, testified that the devotions prescribed by the diocesan statutes on Sundays and holidays were not celebrated at the appointed time, but arbitrarily and at the pleasure of the parish priest Stoiatowski, so that those begun around noon were finished around 3 in the afternoon. With regard to the extraordinary exercise of divine worship, three grievances, in particular, are noteworthy against the parish priest Stoiatowski, which have been proven by witnesses; that, notwithstanding the express prohibition from the archiepiscopal Consistory or Curia, in the hall of the Mohylany estate, where he illegally resided, he adapted one room to resemble a chapel, and there, besides various functions...

[*Latin ed. p. 172*]

172 LEOPOLIEN. He celebrated the sacred rites, even the Sacrifice of the Mass; for, residing in Mohylany, he dared to celebrate two Masses on Sundays and feast days, one indeed in the chamber of the Mohylany manor house, and the other in the parish church of Kulikowi. Furthermore, he frequently exposed the Most Holy Sacrament for nocturnal adoration, using a confraternity established by his own authority. This extraordinary and unusual devotion, from its inception, attracted not only young people and rural girls from Pnemiwolki, who participated in the chanting of litanies, hymns, and the Little Office of the Blessed Sacrament, but also older parishioners. However, when it became known to them that the young

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people and girls gathered for nocturnal adoration were unsupervised in the parish buildings, they gradually grew more and more horrified, especially as rumors spread of certain moral excesses among those participating in the nocturnal adoration. The situation eventually reached the point that those gathered for the nocturnal adoration of the Most Holy Sacrament also participated in dances and celebrations, which, on one occasion, were held in the parish house with the knowledge and consent of the parish priest, Stoiatowski, and were organized by a certain member of the parish as a wedding celebration. The Prelate proceeds to outline many abuses committed by the parish priest in the preaching of the divine word, and his negligence in instructing the youth. Speaking of the law of residence, the Prelate states, as mentioned above, that the parish priest, Stoiatowski, arbitrarily abandoned the residence located near the parish church in Kulikow, and established his residence in the manor house of Mohylany, where he resided for several months in the years 1884 and 1885, causing great inconvenience to the parishioners. He frequently left the parish boundaries; so much so that, customarily, during the Paschal season, he was forced to hear confessions late at night, causing great inconvenience to the parishioners. Regarding the administration of the ecclesiastical funds, the Prelate states: this fund can be considered either as pertaining to the endowment of the benefice itself, or for the construction of the church.

[*Latin ed. p. 173*]

LEOPOLIEN. It is stated that he has appropriated funds; specifically, offerings from the faithful for the needs of the parish church; or, finally, offerings made for various pious causes. In the administration of these goods, he has behaved so badly that the civil tribunal was obliged to prosecute him with a decree of dissolution. Regarding the dishonorable conduct of the parish priest, the witnesses state that he has repeatedly caused scandal, while passing through the church, by lewdly gazing at young girls, and by touching their faces and breasts. Mary Skazowa, the wife of a certain man residing in Lviv, the ordinary of that city, is said to have resided continuously for several years in the rectory of Kulikowi with her children, and during all this time, the parish priest Stanislaus Stoiatowski and the aforementioned Mary Skazowa have behaved and spoken to each other in such a manner as to have aroused such familiarity between them that the reputation of an improper relationship between them and the aforementioned woman spread throughout the entire parish, and the aforementioned Mary Skazowa was commonly considered to be the parish priest Stoiatowski's concubine. The same witnesses also stated that after Mary Skazowa left the rectory of Kulikowi, she took the place of a concubine with a young girl named Magdalena, the daughter of a farmer from Pnemiwotka, and that she held this position not only in Kulikowi, but also in neighboring parishes. It is stated that Magdalena was pregnant before

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she was received into the rectory, and that this was due, in part, to the special favor shown to her by the parish priest Stoiatowski, which was manifested by his words and actions. It is established that this woman gave birth to three children in the years 1885, 1886, and 1888, and that, concerning the third, it was proven by the same witnesses that she was born in the parish priest's house, in the presence and with the assistance of the parish priest himself. A serious indication of the parish priest Stoiatowski's lewdness was provided by the testimony of witnesses Stephen Gotdak and Nicholas Chudy, according to which the aforementioned parish priest was heard in the neighboring parish of Kosciejoviensi, in September 1886, in the cemetery, with the parish church nearby, during the time of the three-day spiritual exercises being held in that parish, and that he... 9.

[*Latin ed. p. 174*]

174. In Leopoli, confessiones sacramentales fidelium, in specie confessiones d'une jeune fille du village de Pnemiwotki, ont révélé qu'il avait tendu la main, et qu'il avait déplacé, volontairement et non volontairement, sa main sous le vêtement, sous l'aile de cette jeune fille, causant ainsi un scandale aux personnes présentes et aux autres fidèles de la paroisse. Concernant la conduite honteuse du curé Stojatowski, je ne peux passer sous silence, dit l'Archevêque, un fait tout à fait notoire et publié dans les journaux provinciaux, selon lequel ce curé, détenu par les tribunaux séculiers, n'a pas hésité à envoyer, de sa propre main, des lettres à une certaine Helena Hempel, alors qu'il était en prison. Ces lettres commençaient par les mots : "Chère et aimée Helena !". Elles étaient interceptées par le tribunal séculier, au moment où un procès criminel était en cours contre lui, et étaient publiées en public, causant un scandale parmi les laïcs et une déshonneur à l'état clérical. L'Archevêque rappelle la violation de la suspension par censure; il reproche au curé la violation du devoir d'obéissance et de respect envers ses supérieurs; enfin, il énumère les plaintes provenant de diverses personnes concernant les dettes contractées par lui et les sommes non remboursées. Puisque le Concile de Trent, Session XXIV, chapitre 6, *De reform.*, stipule que "les curés qui vivent de manière turpide et scandaleuse, après avoir été avertis, doivent être contraints et punis par les Évêques, et, s'ils persistent dans leur méchanceté, ils doivent être dépouillés de leurs bénéfices, conformément aux constitutions des sacrés canons, par une déposition et une révocation de toute sorte :", il est clair que, par cette seule vie turpide et scandaleuse, le curé Stojatowski a perdu son titre canonique, et qu'il est juste qu'il soit retiré de la charge de la paroisse. De plus, si l'on ajoute à ce vice les autres crimes de ce curé, et surtout la honte publique qu'il a acquise, en raison de toute sa conduite, de ses excès et, finalement, de son emprisonnement, il est certain qu'il ne peut plus être

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utile, ni apporter de bénéfice à cette paroisse. Par conséquent,

[*Latin ed. p. 175*]

LEOPOLIEN. There is no doubt that the place is suitable for the removal of a parish priest, for those who know that, even if the parish priest is innocent of true and moral fault, he can be removed from his place to avoid scandal and the hatred of the people, as Reiffenstuel teaches in *De Re Eruditione per Mutationem*, n. 39; Emus D' Annibale, *Summa*, vol. 3, p. 58, in a note, along with others; and as is stated in the *Incapitula Quaesitum De Re Permutatoria*, § fin., and in chapter 10, title 9, *De Renunciatione*. Therefore, if the imputed crimes are true, there is no doubt that the judgment of removal and deposition of the parish priest is just in substance and can be upheld. Nor can it be said that it can be impugned in form, since the form of the judgment, if not in its essential elements, appears to have been observed; for the defendant was summoned, a peremptory term was set for him, and, since he not only did not appear, but, in order not to face the judge, he fled from the decree, he was declared contumacious; nevertheless, a defender was appointed to him ex officio, several witnesses were chosen ex officio, and one, requested by the aforementioned defender, was subjected to examination, and finally, the case was properly discussed, and a sentence was pronounced. Furthermore, the Instruction of the Sacred Congregations, E.E. and R.R., of June 11, 1880, under n. 10, teaches the following regarding the manner of proceeding economically in disciplinary criminal cases of clerics: "When it is necessary to proceed criminally, whether for the cause of a violation of a precept, or of common crimes, or of the laws of the Church, the process can be completed in summary forms and without the pomp of a trial, always observing the substantial rules of justice." (1) Moreover, the contumacy of the priest Stojatowski is called into question. Schmalzgrueber teaches in title XIV, *De Contumacia*, n. 40, that contumacy is present "when the defendant maliciously absents himself or procures, through himself or another, that the citation does not reach him; for he who deliberately causes something not to be, which he ought to have, is considered as if he had received it." And the cited Instruction of the Sacred Congregations, E.E. and R.R. adds in n. 24: "If (the defendant) refuses to appear in judgment, the citation is repeated, in which the same peremptory term is prefixed to him, and he is summoned." This instruction is found in Vol. XIII, 324.

[*Latin ed. p. 176*]

76 LEOPOLIEN. It is understood that if he still refuses to obey, he will be considered contumacious, and will be judged accordingly, to the extent that he disregarded this further notification without a proven and legitimate impediment. However, we have the fact that, according to the decree for the institution of the inquiry, the parish priest was summoned

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to appear on August 23, 1888; but on that day, the parish priest declared to the commissioner judge, who had come to the parish priest's house in Kulikowia, that he would not answer any questions. Again, on September 4th, when the same parish priest was given the last deadline, he refused to receive the aforementioned summons. Therefore, it seems that the parish priest's contumacy is beyond doubt. Furthermore, in these circumstances, and since the parish priest's contumacy is established, it is not relevant that the dispute was not contested, that the accusations were not communicated, or that other things were omitted. Indeed, the Glossa in cap. 14 de accus. teaches: "If the accused is contumacious and does not appear, the judge nevertheless may hear witnesses against him, even if the dispute is not contested, and may punish him." And Schmalzgrueber I. c. n. 57 adds: "When, against a criminal, proceedings are initiated through the means of an inquiry, solely and purely by the authority of the judge, after a public defamation has occurred; neither a petition should be filed, nor should a dispute be contested: but immediately, if the person summoned is contumacious, a sentence of condemnation should be rendered after the witnesses have been heard." It is likely that the appeals made to the Holy See by the parish priest, the delays in the judgment requested by him, and the objections to the jurisdiction repeatedly raised, were always rejected and disregarded by the Curia. However, attention must be paid to the excuse of the Curia, as to how the trial was conducted: for the matter concerned a parish priest who was living scandalously and disgracefully, and therefore the proceedings should have been conducted in a more expeditious or summary manner, as Clement states. The expensive [reference to a document on judicial procedure]. Furthermore, under these conditions, Clement commands "that the judge, to whom we entrust such a case, should, as far as possible, make the dispute shorter, and should..."

[*Latin ed. p. 177*]

LEOPOLD. 177. Repelling delaying and frustrating tactics. "This is derived from the aforementioned citation from the Tridentini Council, chapter, with the words: 'by any exemption and appeal being removed.'" Therefore, according to what has been explained so far, the Leopoldian judgment appears to hold, not only in substance, but also in form. DEFENSE OF THE PAROCHIAL PRIEST. On the other hand, with regard to the suspension, it is proper to recall that a suspension can be imposed either as a censure to break stubbornness, or as a punishment. And it is considered to be imposed as a punishment whenever it is imposed for a completely past offense, that is, one that (as they say) has no subsequent consequence, or whenever it is imposed permanently, or for a day, or at the discretion of the one imposing it, or without any prior warning. Berardi, I, 4, section 3, under the title "De sententiis excommunicationis, etc." Engel, ibid., title, number 2. St. Alphonsus, book 7, number 52, title on morals, with commentary. Fur-

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thermore, if the decree concerning the suspension, which was issued on the matter, is recalled, it becomes clear that this suspension was imposed, on the one hand, for completely past offenses, namely, for a certain irreverent letter sent to the Archbishop on May 16th, and for the rash contracting of another's property, and the subsequent dismissal of the parish priest; on the other hand, for offenses that do indeed have a subsequent consequence – such as the refusal to return the stone of Matthias Sabotha, and perhaps also for a lack of obedience on the feast of St. Visitation – but not properly to break stubbornness and to correct disobedience; but rather out of vengeance; and, what is more, at the discretion of the one imposing it – until we decide otherwise: therefore, in one word, rather as a punishment than as a censure. And that this is indeed the case is further confirmed by the following: for when the parish priest, struck by the fear of this judgment, came again, both in person and in writing, to the Archbishop, and asked for forgiveness, and among other things promised that he would return the stone of Matthias Sabotha, this request was rejected. Indeed, whatever may be the case with this decree of suspension issued on May 24, 1888, it was put into effect by another decree. Acta, Vol. XXIII, page COLXVII, 12.

[*Latin ed. p. 178*]

178 LEOPOLIEN. The censor reports that the aforementioned priest has for a long time been subject to a suspension. Indeed, the Ordinary states that, by a decree dated November 24, 1887, he ordered the aforementioned parish priest to return the stone, under penalty of suspension, unless he complied within 30 days; that this term has elapsed; but that he has not complied; and therefore he has already been suspended. To this, the aforementioned parish priest responds: "I did not receive this decree, and therefore the 30-day period has not yet elapsed." Thus he speaks, and the Most Eminent and Reverend Fathers will judge how much credence should be given to this assertion. Meanwhile, it has been noted that the manner in which the matter has been handled by the archiepiscopal Curia raises some doubt regarding the aforementioned decree of November 24, 1887. For, if a decree of this nature was indeed issued and delivered to the parish priest, it would seem strange and unusual that the Curia, after the lapse of the 30 fatal days, did not take any action, did not summon the parish priest, did not warn him, did not prevent him from celebrating Mass, and did not communicate with him in any way. Furthermore, it would be entirely inexplicable that a new decree of suspension was issued on May 24 by the aforementioned Vicar General, who, if the parish priest was indeed contumacious, should have declared him already suspended, or rather, should have declared the previous suspension to be irregular due to the violation of the suspension itself. However, it must be omitted that if the parish priest Stojatowski did not receive the decree of September 24, 1887, it would seem that a new argument is confirmed, namely that the suspension inflicted

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upon the aforementioned parish priest is more in the nature of a punishment than of a censure. For a censure cannot be imposed upon a person without a prior warning; as Suarez states in *De Legibus*, Book 4, Chapter 5, paragraph 6, with the consensus of scholars. But if the suspension in our case was a punishment, and not a censure, its violation did not give rise to irregularity, as is commonly held, and as Saint Alphonsus states in *Theologia Moralis*, Book 7, paragraphs 314 and 317; and as Emilius D'Annibale states in his Commentary on the Apostolic Constitution *Sedis*, paragraph 16, but only constitutes a sin, due to disobedience and the violation of a precept. But having been led to this question, it is now legitimate to ask...

[*Latin ed. p. 179*]

LEOPOLIEN. 179. The question arises, whether and to what extent this disobedience is permissible. Emus D'Annibale, in *Summa*, volume i, title 2, On Censures, § 387, states that "he who is suspended from divine office, and who is thereby teaching that he gravely sins against the keys and the obedience of the Church, as Suaresius himself teaches: unless, perhaps, all contempt, scandal, and admiration are absent, and a grave necessity compels." Furthermore, the circumstances must be considered in which the parish priest Stojatowski celebrated Mass: it was a solemn feast of the Blessed Virgin Mary, many, 300 according to the parish priest, 30 or 40 according to the curia, were present for the divine services, some moreover desired to receive the sacraments, were waiting, and no priest was present; a murmur arose in the church: "therefore, according to the dictates of conscience, which holds that divine law is superior to human law," the parish priest, as he himself states, proceeded to celebrate Mass. Hence, if it is maintained that the violation of the suspension constituted a punishment, and not a censure, it necessarily follows that the irregularity alleged against the parish priest did not actually occur, and therefore the judgment in that part must be corrected, so that the aforementioned parish priest may obtain and report absolution from this irregularity.

Secondly, if the violation of the censure and the administration of the sacraments by the parish priest on the feast of the Assumption of the Blessed Virgin Mary, due to the particular circumstances mentioned above, is not considered a grave offense, it cannot be included among the causes, whether motivating or impulsive, for the deprivation of the parish. Regarding the question of the violation of the suspension, there are still two main accusations brought against the parish priest, namely, the troublesome and perverse administration of affairs, and the subsequent infamy and incarceration, and incontinence. As for the first, it is sufficient for the parish priest's defense to recall that, although he was accused in several civil proceedings, he was only convicted of recklessness in contracting debts. Given these circumstances, the imputation made to the parish priest under this heading appears to be diminished, and should

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be largely eliminated from the canonical process, as was done in the civil proceedings.

[*Latin ed. p. 180*]

180 LEOPOLIEN. is, and indeed, even more so, because the parish of Kulikow is a very prosperous one, and it is readily said to be capable of providing 20,000 florins to satisfy this foreign element. After these matters, and proceeding to another of the most serious accusations, namely incontinence, it was discovered that this man, who is burdened with so many and such accusations, had left the Society of Jesus, being already a priest and 32 years of age, and had done so with a good reputation. This priest, who had left the Society of Jesus in the year 1875, immediately and continuously devoted himself with all his effort to promoting the honor of God and the care of souls. Examples are the chronicles he wrote for many years, to imbue the people with religion and piety, and the many devotional booklets he published. Examples are also the many pilgrimages he promoted, and his constant participation in the Eucharistic Congresses held in Gallus, as he himself remembers. Indeed, many of the things that are attributed as crimes and faults to the parish priest are rather evidence of his religion and zeal. Truly, how can this piety, this kind of zeal, be consistent with the scandalous life of which the parish priest Stojatowski is accused? It is difficult to conceive: for it is not natural, and it is almost repugnant, that a priest, provided with the best benefits, and immersed in a den of wickedness, should be able to peacefully enjoy his resources and vices, when he ought rather to devote himself day and night to the glory of God and the salvation of souls. And the repugnance grows when all these things are contrasted with the most serious crimes of which he is accused: the obscene familiarity with any women and girls, the adulterous and condemned behavior, first with Mary Skazowa, then with his maid Magdalena, and finally, such a depth of depravity that he himself would take the life of his concubine's child. And it grows even more when it is considered that there are faithful in that parish who, while enduring so many and such things from their pastor, nevertheless write letters in favor of the pastor to the Archbishop.

[*Latin ed. p. 181*]

LEOPOLIEN. 181. Therefore, it is not altogether unreasonable to suppose that the accusations leveled against the parish priest concerning matters of morals are the work of envious and malicious individuals. Indeed, there are many examples and documents that demonstrate how often and recklessly such objections are raised against parish priests. Hence, according to canon 2 of question 7, "a layman is regularly prohibited from giving testimony against a cleric in a criminal case, for antiquity itself testifies that laymen are often hostile to clerics," as Reiffenstuel states in *De testibus*,

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number 160. However, it is reported that men of this kind were summoned by the judge to testify against the parish priest Sfojatowski. Moreover, the defense argues: "I have enumerated above how members of a dissolute confraternity, having gained influence, began to plot against the parish priest, and filled every instance with their complaints. In all these complaints and accusations, almost the same individuals are found to be signatories, many of whom belonged to the suppressed confraternity, and some were even leaders within it." It is not to be overlooked that these individuals, who are honest and worthy of faith, were denounced by the Dean; for although they may be so, nevertheless, as enemies, they are excluded from the law. Furthermore, the Dean was the assessor judge elected by the Archbishop, and against whom the parish priest Stojatowski had, as it were, taken a stand. Therefore, his authority in this matter is weakened by two reasons. Subsequently, it was noted that, with regard to the accusations of immoral conduct against the parish priest, the witnesses spoke mostly from hearsay, and none testified directly or from personal observation, except concerning some minor circumstances, that is, concerning the familiarity, perhaps excessive and imprudent, of the parish priest with his female servant or with other women. However, this familiarity cannot be explained in a single way. As an example, there is the case of Maria Skazowa. She was the daughter of a certain Vogel, who took in Stanislaus, who was leaving the Society of Jesus and had no home, into his house. After Vogel's death, Stanislaus, as he had promised, took the young Maria under his protection, for a time.

[*Latin ed. p. 182*]

182 LEOPOLIEN. A man named Skaza was married. But, as before, and even after the marriage, Stanislaus did not cease to show kindness and protection to the same woman, as was natural. However, to envious and malicious people, whom such circumstances are known, the friendship of the pastor with Mary Skazowa could appear scandalous and suspicious. But it is hardly likely that a husband would hate and despise a priest who supported his wife and concealed the secrets of their marriage. Therefore, the accusations concerning an adulterous and sacrilegious relationship between the pastor and Mary Skazowa seem entirely unfounded. Perhaps they should be understood in the same way as the accusations concerning the pastor's improper conduct with the servant girl Magdalena. Furthermore, it is quite remarkable that neither Mary nor Magdalena, the two women with whom the pastor is accused of scandalous behavior, have been summoned to testify, nor have their parents and friends, who should certainly have been aware of these matters and have been completely overlooked in the investigation. And yet, these women, although unheard, although not contumacious, are condemned along with the pastor. What has been explained so far concerns the substance of the judgment and the truth of the accusations, but not without touching upon the form of the

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process to some extent. For what has been said about the selection of certain witnesses and the exclusion of others, as well as the omission of the women accused and their relatives and friends, and other similar observations, clearly demonstrate that the form of the process is contrary to the substance of the judgment. But perhaps other, and perhaps even more, things contrary to the form of the process can be alleged. The pastor Stojatowski claimed that the court was not favorable to him, and that the Dean was particularly hostile to him, and therefore he proposed a declinatory exception of the forum, or at least an exclusive exception of the Dean. He asserted that he could fully prove, through witnesses and documents, that such exceptions were not frivolous or reckless.

[*Latin ed. p. 183*]

LEOPOLIEN. 183 Finally, besides other matters, another indication of the archiepiscopal Curia's rivalry and prejudice against the parish priest Stojatowski is to be found in this: the parish priest maintains that, after his suspension was publicly announced in the church, when he requested permission to leave and reside outside the parish for a time, such permission was not only denied to him, but he was ordered to remain. Furthermore, it must be stated that these and other things, of which the parish priest complains, were not treated solely with a hostile intention by the Curia and its officials: indeed, they could certainly have been motivated by just reasons. However, it cannot be denied that, in these circumstances, the Curia, or some of its officials, appeared to have a suspicious attitude towards the parish priest, and therefore, rightly, he proposed a declinatory exception of the forum. For, as it plainly follows from *tit. De excepi* and from the decrees in Reiffenstuel, book 4, number 9 and following, "because of the animosity which the judge bears towards the accused," an exception against the person of the judge can be proposed and demanded, so that another may be appointed to that office, or, if that is not possible, that the superior tribunal may judge this exception. Indeed, it is a principle of natural law that no one should be judged by an adversary. Therefore, since the Leopoliensis Curia disregarded this exception, it seems to have violated the form of the process. Moreover, there is another matter. Article 43 of the *Instr. S. C. E E. et R. R.* states: "If it should happen that a cleric, notwithstanding the privilege of the forum, is subjected to the process and judgment of the civil authority for common crimes, 1. while the judgment is pending or the accused is detained, it is prudent that the Ordinary limit himself to provisional measures; 2. however, once the judgment is completed and the accused is released, the Curia, according to the outcome of the information, will proceed with the steps provided for in the present instruction." This sanction is most just, so that the priest, distracted by civil matters, may not lack the opportunity and the time to defend himself properly in the ecclesiastical forum. However, the Leopoliensis Curia does

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not seem to have adhered to this prescription, as is evident from the specific case; indeed, while the first instance judgment was pending, it instituted and concluded an investigation in the ecclesiastical forum.

[*Latin ed. p. 184*]

184 LEOPOLIEN. Indeed, in previous years, the parish priest, Stojatowski, had repeatedly requested that a formal judgment be instituted regarding the accusations made against him, either by the dean or by other of his enemies, and he had never been heard. Therefore, the solicitude and haste of the archiepiscopal Curia in establishing and concluding the judgment, especially at a time when even the canons, and indeed the humble and insistent petition of the concerned party, urged caution, appears all the more serious. For the parish priest, Stojatowski, as the facts demonstrate, had requested that the ecclesiastical judgment be postponed for three or six months, within which time he hoped to be able to pursue his case in a secular forum. Furthermore, the dilatory exception to the judgment, being founded in law and conforming to equity, could hardly be easily dismissed. Moreover, the same parish priest, whether in words or in writing, had frequently petitioned before the judge commissary and the Ordinary himself to have the matter referred to the Holy See; and, moreover, he had appealed against and sought recourse to the Apostles against the interlocutory decrees, by which the exceptions of declinatory jurisdiction and dilatory judgment were rejected; and finally, having already undergone the ecclesiastical process and languishing in prison, but without a sentence having been pronounced, he had appealed to the Most Holy [See]. Furthermore, respect for the Apostolic See seemed to demand that the lower judge should pause for a moment and allow the accused to pursue his exceptions before a higher tribunal. Although the very Council of Trident, in chapter 20, Session 24, has somewhat restricted the ancient and most extensive right of appeal, and has prescribed that "in causes of visitation and correction, or of habilitation and inhabilitation, as well as in criminal cases, before a final sentence, no appeal shall be made from an interlocutory decree or any other impediment," nevertheless it expressly added, "unless such impediment cannot be remedied by a final sentence." Nor does it help to say that the Bishop can proceed with the removal of a scandalous parish priest "without any appeal whatsoever," according to the same Trident. For, from chapter 53 of Pastoral,

[*Latin ed. p. 185*]

LEOPOLIEN. 185. We know that the clause "remota appellatione" prohibits only that appeal which is not expressly permitted by law. The rule, which is no less important, is that no one can be deprived of a benefice, except for a crime expressly defined by law and with due observance of legal procedure. And when it is a question of imposing a penalty, "we

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must consider the condemned as having 14 De re iudic., the one who has been duly condemned, so that the sentence may be valid." Otherwise, the sentence in the forum of the court is not understood, as Engel states in book 5, title 32, number 9. In short, as Ferraris writes in *iudic.*, number 21: "A sentence pronounced in an ordinary court, without observing the formalities prescribed and required by law, is null; but a sentence pronounced in a summary court is valid, even if some of the formalities required by positive law are not observed, provided that those which are necessary for the legitimate decision of the case by natural or civil law are observed." But if these are not observed, then the sentence will be null even in this case. Given these considerations, the purpose was to resolve the doubt as to whether the sentence of the Leopoliensis court should be confirmed or rejected in this case.

RESOLUTION. The Sacred Congregation of the Council, after a serious discussion on May 23, 1889, decided to respond: "The sentence should be confirmed, and the Ordinary should be given the power, according to his judgment and conscience, to absolve the priest Stanislaus Stojatowski from the censures, due to the aforementioned circumstances, and to dispense him from the irregularities, due to the violation of the censures."

FROM WHICH WE CAN GATHER:

I. That suspension, as a censure intended to break contumacy, can indeed be legally imposed, after prior warnings.

II. That parish priests who live shamefully and scandalously can be deprived of their office, as is clear from the Council of Trent, session 21, chapter 6, decree; for they must be warned, restrained, and punished.

[*Latin ed. p. 186*]

186 LEOPOLIEN. If they persevere in their obstinacy, they are deprived of benefits, and all exemptions and appeals are removed. III. It has been proven by several witnesses that the parish priest in that place has led a scandalous life; and therefore, his removal is considered absolutely necessary. IV. In such a removal, it is sufficient to observe the essential form of justice in the proceedings, when otherwise it cannot be done; because it seems to urgently demand the good of souls that scandals are not prolonged. V. By law, a notorious and contumacious person can be punished who maliciously avoids appearing, or who seeks to prevent a summons from reaching him. VI. Indeed, the accused, after repeated summons for a peremptory term; if he does not appear without a proven and legitimate impediment, he is considered contumacious, and a sentence of condemnation can be passed against him without a contestation of the matter. VII. When it is a question of a parish priest living shamefully and scandalously, proceedings can be expedited according to the Clementine Code. Because

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it has happened: the judge is said to shorten the proceedings as much as possible, by rejecting dilatory and frivolous exceptions and appeals.

SENOGALLIAE. RETENTION OF THE ECCLESIASTICAL BENEFICE. May 3, 1890. By summary proceedings.

COMPENDIUM OF THE AGREEMENT. In the church of the Holy Cross in the city of Senigaglia, there exists a chaplaincy under the patronage of the Mastai-Cignani family, whose revenues, derived partly from rural and partly from urban property, are said to amount to 1284 livres; from which, after deducting burdens and expenses, calculated at 752 livres, a sum of approximately 500 livres remains for the use of the beneficiary. The possession of this chaplaincy was acquired in the year 1856.

[*Latin ed. p. 187*]

SENOGALLIEN. 187. There resided there a certain Felix Reggiani, a cleric, a graduate of the college of Urbino. But when he proposed to send a messenger shortly thereafter concerning ecclesiastical matters, and to transition to the secular state, he requested that it be permissible for him to retain the same chaplaincy in the lay state; and this was initially granted by a decree of September 16, 1861, issued after an audience with the Most Holy [Pope], for a period of ten years, with the obligation of fulfilling the duties of the chaplaincy, and of teaching on these matters to the Bishop. This grace was renewed for another ten years on July 23, 1877, also after an audience with the Most Holy [Pope], and indeed was extended: for not only was permission granted to the cleric to retain the chaplaincy in the lay state, but also in the married state, and furthermore, a reduction in the number of Masses was granted. For until then, 124 Masses were celebrated, at a rate of 0.75 per Mass, but it was permitted that the number of Masses be reduced so that the expenses for alms would amount to only one libra. Even after this second decade had elapsed, on January 13, 1888, Felix Reggiani again presented a petition, and requested a further extension of the indulgence; indeed, he requested that it be extended for life. He also stated that he was already a widower, having been left by his wife. The Bishop and those with an interest in the matter were consulted. The Bishop, indeed, highly recommended the cleric, as a pious and religious man who had faithfully fulfilled the duties of the chaplaincy until now; but those with an interest in the matter did not have the same opinion. For, since the patronage of this chaplaincy is divided by half between the Countess Anne Mas tai-Augusti, by a third between the Countess Christina Mastai-Bellegarde, and by a quarter between the four sons of the deceased Hercules Mastai, the Countess Anne and the Countess Christina declared that they would agree to the cleric's requests, provided that the grace was granted for a period of ten years, to the Bishop. But two of the sons of Hercules Mastai declared that they could not give their consent; and Jerome, on behalf of another sister, Mary Pia, informed the Bishop

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that she would respond directly to the Sacred Congregation [of Rites]; but in truth, neither to the Sacred Congregation, nor to the Bishop, did she ever respond, although she was repeatedly requested, both in person and in writing.

[*Latin ed. p. 188*]

188 SENOGALLIEN. He answered nothing further. However, the Ordinary reports: "Today, from a letter from the advocate of Reggio, it is established that the aforementioned Countess, Mary Pia, was confined as a madwoman in a certain women's institution, and that the Count Jerome has not yet responded, nor does he wish to respond, because he has obtained, and it is fixed and certain, the chaplaincy, concerning which, in prayers, he seeks to have it exempted from the treasury by virtue of the law in force." Since Felix of Reggio has been invested with this benefit according to the law, and before the civil law currently in force, he has not yet been deprived of the right to enjoy the chaplaincy, even though he does not wear the habit or tonsure; therefore, the fate of this chaplaincy has remained secure up to now by that very civil law. In any case, the Bishop's opinion is "that the advocate's prayers should be granted, with the proviso that the collection of revenues should cease from the day following the last indulgence, notwithstanding the dissent of the sons of the late Hercules Mastai. Since the consent of the Countesses Anne and Christina is obtained, to whom five parts of the chaplaincy's endowment belong, the dissent of those who hold only one-sixth does not seem to be an obstacle."

1022. Synoptic Discussion. It was noted by the Office that the granting of this grace is primarily hindered by the common law of the Church, which commands that benefices and chaplaincies be granted and preserved to clerics, not to laymen; and also by the dissent of the sons of the late Count Hercules Mastai, who hold one-sixth of the patronage rights, and therefore have a vote in the provision for the chaplaincy; indeed, even the will of the other patrons is an obstacle to the granting of the chaplaincy's retention for the lifetime of the advocate; since the two Countesses, Anne and Christina, have declared that they will only consent to the retention of the chaplaincy for a period of ten years. However, it is also noted that such an indulgence has been granted repeatedly, even in more difficult marital circumstances. Therefore, in a less unfavorable situation, such as widowhood, greater facility and less opposition to the granting or extension seems to be present.

[*Latin ed. p. 189*]

SENO GALLIEN. 189. Indeed, a most peculiar circumstance arises in the present situation, namely, that the fate of the chaplaincy may be saved from division, dispersion, and confiscation, or at least its ruin may be postponed. It makes no difference concerning the dissent of the patrons. For, if the Holy See does not require the consent of the patrons in order to grant a

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cleric, invested with some benefice, permission to lay aside the ecclesiastical vestments, and to allow him to retain the same benefice in a lay state for particular reasons, then it is only fitting that they be consulted and heard on this matter. Furthermore, if one of the patrons dissents, at least with an unjust intention, namely, in order to open the way for the seizure and appropriation of goods; then, all the more, no effort should be made to appease his dissent: rather, it would almost seem to be a betrayal of his criminal desires and a failure to oppose the sad obstacle of his greed, and to pave the way for easier exploitation through the denial of grace. With these considerations in mind, the question was raised as to how the petitions should be addressed. RESOLUTION. The Sacred Congregation, after discussing the matter on March 10, 1890, decided to respond: "With prior absolution regarding the past, for a grace of another decade, having given their word to the Most Holy." FROM THE SACRED CONGREGATION OF THE HOLY ROMAN CHURCH FOR THE INQUISITION. Concerning the examination of the freedom of status before marriage. Instruction to the Local Ordinaries of the East. In order that the unity of the marriages of the faithful may remain, and that no nullity may be introduced into those contracted, the Most Holy Congregation of Eminent Fathers, together with the General Inquisitors, with the authority of His Holiness Pope Leo XIII, has ordered the following Instruction to be drawn up and communicated to the Eastern Bishops, which, among the difficulties with which they are beset on all sides, will be of great use and help to them in examining the freedom of status of those who desire to be joined in marriage.

[*Latin ed. p. 190*]

190 S. R. U. INQUISITIONIS 1. The status of freedom can be ascertained and legally proven in three ways: 1° by publications made in the Church; 2° by documents; 3° by the examination of witnesses. 2. The publications must be made in the place of domicile, or quasi-domicile. It is also advisable that they be made in the place of origin, if the parties have resided there after reaching the age suitable for marriage; and furthermore, in the places where they have resided for at least ten months, unless they have already established a domicile in the place where the marriage is to be celebrated. 3. If the examination of witnesses is to be held in an episcopal city, it shall be presided over by the Vicar General; if in other places of the diocese, by the parish priest. The interrogations and answers must be carefully recorded in writing, after each witness has taken an oath to speak truthfully. 4. For the purpose of giving testimony in this matter, women may also be admitted, and relatives, namely parents, brothers, sisters, etc., are preferred over outsiders, because they are presumed to be better informed; and citizens are preferred over foreigners. 5. The certificates, and other documents produced by the parties, or on behalf of the parties, must be sealed not only by the parish priest, but preferably by the Ordinary of

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the diocese from which they originate. It must always be carefully ensured that the certificates, or testimonies, clearly and unambiguously identify the persons concerned. 6. If, after the status of freedom has been proven, two or three months have passed without the marriage being celebrated, a new process should regularly be initiated for this period of time; but, due to the variety of circumstances, the matter is left to the prudent judgment of the Ordinaries. 7. If either of the parties is at the point of death, and there is probably not enough time to carry out the necessary investigations, the prescribed process may be omitted; however, if the sick person recovers, the necessary investigations, or process, must be carried out before they can be joined in marriage. 8. If the parties are vagrants, permission to marry will not be granted unless they prove, by documents from their Ordinaries, that they are free. If certificates from the Ordinaries, in whose dioceses they have resided for a period of time not exceeding one year, cannot be obtained, the Ordinary of the place where the marriage is to be celebrated shall require them to take an oath.

[*Latin ed. p. 191*]

S. R. U. INQUISITIONIS 191 supplementum admittendi est, solum in illis locis, ex quibus fides authentica non poterit esse. Sed semper insistere oportet, ut contrahentes inducant testes fide dignos, in respectivis locis, ad interrogandum. Si autem hoc valde difficilis fieri possit, in Curia loci ubi matrimonium contrahitur, testes fide digni poterunt admitti, qui statum libertatem tempore vagationis conclusive probent; et si Ordinario opportunum videatur, etiam sponsus ad iuramentum supplementarium admitti poterit, sed ipse sibi iuratus esse fide dignum.

9. Quod si dubium circa statum libertatem contrahentium oriatur, vel ex matrimonio, catholico modo, a catholicis celebrato; vel ex connubio ab haereticis aut schismaticis iuxta diversarum sectarum statuta contracto, et postea per sententiam talium tribunalium dissoluto; aut ex contracto inter infideles, qui postea rescissus, aut nullus declaratus fuerit, standum est Instructioni huius Supremae Congregationis Sanctae Romanae et Universalis Inquisitionis datae die 20 Septembris 1883, art. 4. (1).

10. Testis examinandus moneatur de gravitate iuramenti in hoc negotio ferendi, et deinde interrogetur de nomine, cognomine, patre, patria, aetate, conditione, et habitatione: tum an sit civis vel exteras; et quatenus exteras, a quo tempore sit in loco, in quo deponit. An ad examen accesserit sponte vel requisitus. Si dicat se accessisse sponte a nemine requisitum, dimittatur, quia praesumitur mendax; si requisitus, interrogetur a quo, vel a quibus, ubi, quando, quomodo, coram quibus, et quoties fuerit requisitus, et an sciat adesse aliquod impedimentum inter contrahere volentes. An sibi pro hoc testimonio ferendo fuerit aliquid datum, promissum, remissum, vel oblatum a contrahere volentibus, vel ab alio ipsorum nomine. An cognoscat contrahere volentes, ipsorum indolem, mores, conditionem, et

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a quo tempore, in quo loco, qua occasione. Si responderit negative, testis dimittatur; si vero affirmative, interrogetur, an iidem sint cives, vel exteri. Si responderit esse exteros, suspendatur licentia contrahendi, donec per litteras Ordinarii ipsorum doceatur de eorum libero statu, pro eo tempore quo in eius Dioecesi morati sunt.

11. Ad probandum vero eorumdem statum liberum pro tempore reliquo, scilicet usque ad tempus, quo volunt contrahere, adest Instructio haec, Vol. XVIII, 344.

[*Latin ed. p. 192*]

192 The Sacred Roman Universal Inquisition may summon and admit suitable witnesses, who, if they clearly demonstrate, by giving reasons, that their knowledge is their own, will not be required to present attestations from the local Ordinaries, in which they would have experienced delays. However, if they answer that they are citizens, they will be questioned under which parish they have hitherto resided or reside, whether they know if either or both have ever been joined in marriage, or have professed vows in an approved religion, or have entered any order to which celibacy is attached, or are subject to any impediment that prevents marriage. If they answer negatively to these questions, they will be questioned about the basis of their knowledge, and whether it is at least possible that either of them may have a wife or husband, or any other impediment unknown to the witnesses themselves. If they answer affirmatively, the matter shall be suspended, unless it is clearly demonstrated by other witnesses to the contrary. If they answer negatively, they will be questioned about the basis of their knowledge, from which it will then be possible to determine whether the testimony of such witnesses should be accepted. If they answer that the parties have had a wife or husband, but that they are deceased, they will be questioned about the place and time of their death, and how and from where they know that they were married, and that their respective wife or husband is deceased. If they answer that they are deceased in some hospital, or that they have seen them buried in a certain church or cemetery, no permission for marriage shall be granted, unless first a genuine testimony is received from the director of the hospital in which the aforementioned persons died, or from the pastor of the church or cemetery in which their bodies were buried. However, if such testimonies cannot be obtained, other proofs are not excluded, which may be admitted according to common law, provided that they are legitimate and sufficient. Furthermore, they will be questioned whether, after the death of one of the spouses, they have taken second vows; and if so, whether it is possible that either of them may have taken second vows unknown to the witnesses; and if so, the permission shall be suspended until witnesses are produced by whom the negative is clearly demonstrated. If, however, they answer negatively, they will be questioned about the basis of their knowledge, from which the

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judge will be able to judge whether permission should be granted or not. Given in Rome, on the 29th of August, in the year of Our Lord 1890. R. Card. MONACO.

[*Latin ed. p. 193*]

193. ENCYCLICAL LETTER from Pope Leo XIII to the Bishops, the Clergy, and the People of Italy. From the heights of the Apostolic See, where Providence has placed us to watch over the salvation of all peoples, our gaze is turned especially towards Italy, within whose bosom God, by a singular act of predilection, has placed the seat of His Vicar, and from which, moreover, we are presently receiving many and most grievous sorrows. — We are not saddened by personal offenses, nor by the deprivations and sacrifices imposed by the present state of affairs, nor by the insults and calumnies which a virulent press has filled its columns with, launching against us each day. If it were only a matter of our own person, and if it were not for the ruin to which we see Italy being driven, threatened in its faith, we would bear the offenses in silence, gladly repeating what one of our most illustrious Predecessors said: "If my captivity were to increase daily in dishonor, and I were to be mocked, I would gladly remain silent" (1). — But it is a matter of the independence and dignity of the Holy See, and of the very religion and the salvation of an entire nation, and of that nation which, from the earliest times, opened its heart to the Catholic faith and has jealously preserved it at all times. It seems incredible, but it is true: we are so deeply concerned that we fear for the loss of faith in our Italy. — We have given the alarm many times, so that you might be aware of the danger; but we do not believe that we have done enough. Faced with the continuous and ever more fierce attacks, we feel the voice of duty more powerfully, urging us to speak again to you, Venerable Brothers, to your Clergy, and to the Italian people. As we do not allow the enemy to act unhindered, so it is not fitting for us, nor for you, who, by divine mercy, were constituted guardians and defenders of the religion of the peoples entrusted to our care, vigilant pastors of the flock of Christ, for whom we must be ready, if need be, to sacrifice everything, even life, to remain silent. We do not say this for the first time, for the facts, as they have occurred, are not new: and we have had to speak of them on other occasions, as circumstances permitted. — But here, we intend to... (1) St. Gregory the Great, Letter to Emperor Maurice. Regist. 5 Acta, Vol. XXIII, p. CCLXVIII, 13.

[*Latin ed. p. 194*]

194. The chapter headings, uncertain and grouped together as if in a single frame, aim to extract a common lesson from the consequences that followed. These are undeniable facts, occurring in broad daylight: not isolated incidents, but connected to each other, forming a series that reveals

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with full clarity a system, its workings, and its development. This system is not new; but its audacity, its persistence, and its speed with which it is now being implemented are new. It is the plan of the sects, which is now being carried out in Italy, especially in the part that concerns the Church and the Catholic religion; with the notorious ultimate goal of reducing it, if possible, to nothing.

Now, it is superfluous to put the sects, which are of a Masonic nature, on trial: the judgment has already been passed; the aims, the means, the doctrines, the actions, all are known with certain and undeniable clarity. Invaded by the spirit of Satan, of which they are the instrument, they burn, like their inspirer, with a mortal and implacable hatred against Jesus Christ and His work: and they exert all their power to destroy or cripple it. This war is being fought more than anywhere else in Italy, where the Catholic religion has deeper roots, and especially in Rome, where it is the center of Catholic unity and the Seat of the Pastor and Universal Master of the Church.

It is useful to recall, from the very beginning, the various phases of this war.

It began by overturning, under the guise of political reform, the civil authority of the Popes: but, having fallen into the secret intentions of the true leaders, which were then openly declared, it was intended to destroy, or at least to keep in servitude, the supreme spiritual power of the Roman Pontiffs.

And so that there would be no doubt about the true goal to which they were aiming, the religious orders were suppressed, which greatly reduced the number of evangelical workers for the administration of the sacraments and for religious assistance, as well as for the propagation of the faith among the infidels.

Later, it was desired to extend the obligation of military service even to clerics, with the necessary consequence of placing serious and numerous obstacles in the way of the recruitment and proper training of the secular clergy. They levied taxes on ecclesiastical property, confiscating part of it absolutely, and burdening the rest with the most enormous charges, in order to impoverish the clergy and the Church, and to deprive it of the means it needs here below to live and to promote institutions and works in aid of its divine apostolate. They have openly...

[*Latin ed. p. 195*]

LETTERA 195: Dichiarando gli stessi [come] settari. Per diminuire l'influenza del clero e delle associazioni clericali, un solo mezzo efficace è da impiegare: spogliarli di tutti i loro beni e ridurli ad una povertà completa. — D'altra parte, l'azione dello Stato è tutta diretta per sé stessa ad cancellare dalla nazione l'impronta religiosa e cristiana: dalle leggi e

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da tutto ciò che è vita ufficiale, ogni ispirazione ed ogni idea religiosa è, per sistema, bandita, quando non sia direttamente osteggiata; le pubbliche manifestazioni di fede e di pietà cattolica o sono proibite, o sotto vani pretesti, in mille modi, intralciate. — Alla famiglia è stata sottratta la sua base e la sua costituzione religiosa, proclamando ciò che chiamano matrimonio civile, e con l'istruzione che si vuole del tutto laica, dai primi elementi fino all'insegnamento superiore delle Università: si vuole che le nuove generazioni, per quanto dipendano dallo stato, siano come obbligate a crescere senza alcuna idea di religione, del tutto prive delle prime ed essenziali nozioni dei loro doveri verso Dio. — È questo un mettere la scure alla radice, e non saprebbe immaginarsi mezzi più universali e più efficaci per sottrarre all'influenza della Chiesa della fede la società, la famiglia e l'individuo. Scuotere fino alle fondamenta il clericalismo, ossia il cattolicismo, nelle sue fondamenta e nelle stesse sue sorgenti di vita, cioè nella scuola e nella famiglia, è la dichiarazione autentica che questi scrittori fanno. Si dirà che ciò non avviene solo in Italia, ma che è un sistema a quale gli Stati generalmente si conformano. — Rispondiamo che questo non distrugge, ma anzi conferma quanto Noi diciamo degli intenti e dell'azione della massoneria in Italia. Sì, questo sistema è adottato ed emesso in uso ovunque la massoneria esercita la sua empia e nefasta azione; e poiché questa è largamente diffusa, così questo sistema anticristiano è pur largamente applicato. Ma l'applicazione ne diviene più rapida e generale, e si spinge più agli estremi in quei paesi, i cui governi sono più sotto l'azione della sètta e meglio promuovono gli interessi. — E per il momento, nel numero di questi paesi, è presente la nuova Italia. Non è da oggi che essa soggiace all'influsso empio e maligno delle sètte; ma da qualche tempo queste, divenute assolutamente dominanti e strapotenti, la tiranneggiano al loro talento. Qui, l'indirizzo della pubblica cosa, per ciò che concerne la religione, è tutto conforme.

[*Latin ed. p. 196*]

196 LETTER TO those who harbor aspirations for secret societies; and who, in order to achieve their aims, find in those who hold public power, declared and docile instruments. Laws adverse to the Church, measures expressly offensive, are first proposed, decreed, and resolved within the assemblies of these societies; and it suffices that something, however remote, appears to insult or harm the Church, to see it immediately favored and promoted. — Among the most recent events, let us recall the approval of the new penal code: in which, with the greatest tenacity, despite all objections, the articles against the Clergy were included, which constitute, therefore, a law of exception, and which consider certain acts, which are sacred duties for him, as criminal. — The law concerning Charitable Works, by which all the patrimony of charity, accumulated by the piety and religion of our ancestors, under the shadow and protection of the Church,

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was withdrawn from every action and interference of this [Church], that law had already been promoted for many years in the assemblies of the society, precisely because it was intended to inflict a new offense upon the Church, to diminish its social influence, and to suddenly deprive it of a great quantity of endowments intended for religious purposes. — To this eminently sectarian undertaking was added the erection of the monument to the infamous apostate of Nola, promoted, desired, and carried out with the help and favor of the governing members of Freemasonry, who, through the mouths of the very most authoritative interpreters of the sectarian mindset, did not blush to confess its purpose and to declare its meaning: the purpose was to insult the Papacy; the meaning is that they now wish to substitute for Catholic faith, the most absolute freedom of examination, of criticism, of thought, and of conscience: and it is well known what such language signifies in the mouths of sectarians. — The most explicit declarations made publicly by those at the head of government were then ratified, declarations which sound precisely like this: "The true and real struggle, which the government has rightly understood, is the struggle between faith and the Church on one side, and free examination and reason on the other. Let the Church strive to react, to chain reason and freedom of thought anew, and to overcome. As for the government, in this struggle, it declares itself openly in favor of reason against faith, and it attributes to itself the very task of ensuring that the Italian State be the expression and embodiment of this reason and freedom": a sad thing.

[*Latin ed. p. 197*]

LETTERA 197. Il compito, cui noi già in occasione simile abbiamo audacemente riaffermato. Alla luce di tali fatti e di queste dichiarazioni, torna più che mai evidente che l'idea maestra, la quale, per ciò che tocca la religione, presiede all'andamento della cosa pubblica in Italia, si è attuazione del programma massonico. Si vede quanto già ne fu attuata; si vede quanto ancora rimane da attuare; e si può prevedere con certezza, che fino a tanto che i destini d'Italia saranno in mano di reggitori secolari ligi alle sette, si spingerà l'attuazione più o meno rapidamente, secondo le circostanze, fino al più completo sviluppo. La loro azione ora è diretta a raggiungere i seguenti scopi, secondo i voti e le risoluzioni prese nelle loro assemblee più autorevoli, voti e risoluzioni tutte ispirate da un odio e una morte contro la Chiesa: "Abolizione nelle scuole di qualsiasi istruzione religiosa, e fondazione d'istituti, in cui anche la gioventù femminile sia sottratta ad ogni influenza clericale, qualunque essa sia; giacché lo Stato, che deve essere assolutamente ateo, ha il diritto e il dovere inalienabile di formare il cuore e lo spirito dei cittadini, e nessuna scuola deve essere sottratta né alla sua ispirazione, né alla sua vigilanza." "Applicazione rigorosa di tutte le leggi in vigore dirette ad assicurare l'indipendenza assoluta della società civile dalle influenze clericali." "Osservanza rigorosa delle leggi che sopprimono

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le corporazioni religiose ed uso di tutti i mezzi per renderle inefficaci." "Sistemazione di tutto il patrimonio ecclesiastico, partendo dal principio, che la proprietà di esso appartiene allo Stato e all'amministrazione ai poteri civili." "Esclusione di ogni elemento cattolico o clericale da tutte le amministrazioni pubbliche, dalle opere pie, dagli ospedali, dalle scuole, dai consigli nei quali si preparano i destini della patria, dalle accademie, dai circoli, dalle associazioni, dai comitati, dalle famiglie; esclusione da tutto, ovunque, per sempre. Invece, l'influenza massonica deve farsi sentire in tutte le circostanze della vita sociale, e divenire padrona e arbitra di tutto." "Con questo si spianerà la via all'abolizione del Papato; così l'Italia sarà liberata dal suo implacabile e mortale nemico, e Roma, che fu in passato il centro della Teocrazia universale, sarà nel futuro il centro della secolarizzazione universale, di onde deve essere proclamata in faccia al mondo intero."

[*Latin ed. p. 198*]

198 LETTER TO THE BISHOPS: "Magna Carta of Human Liberty." These are all authentic declarations, aspirations, and resolutions emerging from their assemblies. Without exaggeration, this is the present state and the future that is foreseen for religion in Italy. To dissimulate its gravity would be a fatal error. To recognize it as it is, and to confront it with evangelical prudence and fortitude, to deduce the duties that it imposes on all Catholics, and on us especially, who, as pastors, must guide them towards salvation, is to enter into the designs of Providence, and to perform the work of wisdom and pastoral zeal.

Regarding ourselves, our Apostolic office compels us to vehemently protest anew against everything that has been done, is being done, or is attempted against religion in Italy. As defenders and guardians of the sacred rights of the Church and the Papacy, we openly reject and denounce to the entire Catholic world the offenses that the Church and the Papacy receive continuously, especially in Roma, and which make the governance of the Catholic world more difficult for Us, and render Our condition more grave and unworthy. Furthermore, we are firmly resolved to omit nothing on Our part that may serve to maintain alive and vigorous among the Italian people the faith, and to protect it against enemy attacks.

Therefore, Venerable Brothers, we appeal to your zeal and your love for souls, so that, understanding the gravity of the danger in which they are, you may employ all means to avert it. No means should be neglected that is within our power: all the resources of the word, all the instruments of action, all the immense treasure of aids and graces that the Church places in our hands, are to be employed for the formation of an educated clergy, full of the spirit of Jesus Christ; for the Christian education of youth; for the eradication of erroneous doctrines; for the defense of Catholic truths; for the preservation of the character and Christian spirit in families. As for

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the Catholic people, it is necessary, above all, that they be informed of the true state of affairs in Italy concerning religion, of the essentially religious nature of the struggle against the Pope, and of the ultimate goal to which it constantly aspires, so that, seeing with the evidence of facts how they are threatened in their religion, they may be persuaded of the risk.

[*Latin ed. p. 199*]

LETTER 199: Concerning those who have been robbed and stripped of the inestimable treasure of the faith. — Those souls who have been formed in the persuasion that, on the one hand, it is impossible to please God and to be saved without faith, and who, on the other hand, understand that it is the greatest, if not the only, interest that each one here below has a duty to place above all others, and at the cost of any sacrifice, under pain of his eternal unhappiness, will readily understand that, being this a time of fierce struggle and manifest conflict, it would be cowardice to desert the field and to hide oneself. Their duty is to remain in their place, to show themselves to be true Catholics by their beliefs and actions conforming to their faith, and this both to the honor of that [institution] and to the glory of the supreme Leader, whose insignia they follow; so that they may not lose the supreme grace of not being disavowed on the final day and not being recognized by the supreme Judge, who has declared that he who is not with him is against him. — Without ostentation and without timidity, let them demonstrate that true courage which arises from the consciousness of performing a most sacred duty before God and men. With this frank profession of faith, Catholics must unite a perfect docility and a filial love towards the Church, a sincere obedience to the Bishops, and an absolute devotion and obedience to the Roman Pontiff. In summary, they will recognize how necessary it is to cease from all that is the work of the sects, or that favors the sects, because it is certainly contaminated by the anti-Christian spirit that animates them; and instead, with activity, courage, and constancy, to dedicate themselves to Catholic works, to associations and institutions blessed by the Church, encouraged and supported by the Bishops and the Roman Pontiff. — And since the principal instrument used by the enemies is the press, which is largely inspired and supported by them, it is necessary that Catholics oppose the bad press with the good press for the defense of the truth, for the protection of religion, and for the support of the rights of the Church. And just as it is the duty of the Catholic press to expose the perfidious intentions of the sects, to assist and to follow the actions of the sacred Pastors, to defend and promote Catholic works, so it is the duty of the faithful to support it effectively, both by denying or withdrawing all favor from the perverse press; and directly, by contributing, each one in the measure that he can, to making it live and prosper: in which matter we

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believe that in Italy, not enough has been done so far. — From last...

[*Latin ed. p. 200*]

200. LETTER TO ALL CATHOLICS: The principles which We have imparted to all Catholics, especially those contained in the Encyclicals *Humanum genus* and *Sapientiae christianae*, must be particularly applied and instilled in the Catholics of Italia. If, in order to remain faithful to these duties, they have something to suffer or to sacrifice, let them be encouraged by the thought that the Kingdom of Heaven suffers violence, and that it is only through making sacrifices that it is conquered; and that he who loves himself and his possessions more than Jesus Christ is not worthy of Him. Let the example of so many valiant champions, who, for the sake of the faith, have generously sacrificed everything at all times, help them; and may the singular graces which make the yoke of Jesus Christ easy and His burden light, powerfully strengthen their courage and sustain them in the glorious combat. We have considered, in the present circumstances in Italia, only the religious aspect, as that which is, for Us, the most important and eminently proper, because of the Apostolic office which We hold. But it is the duty of this work to also consider the social and political aspects, so that the Italians may see that it is not only the love of religion, but also the most sincere and the most noble love of their country, that must move them to oppose the wicked designs of the sects. It is enough to observe, in order to be convinced, what future is being prepared for Italia, in the social and political order, by those who have as their aim, and do not conceal it, to wage war without truce against Catholicism and the Papacy. The proof of the past is, by itself, very eloquent. What has happened in Italia in this first period of its new life, in terms of public and private morality, security, order, and internal tranquility, and in terms of national prosperity and wealth, is more evident from facts than from what We could say in words. Even those who would wish to conceal it, are compelled by the truth not to remain silent. We will say only that, in the present circumstances, and for a sad but true necessity, things could not go otherwise: the Masonic sect, although it may display a spirit of benevolence and philanthropy, can exercise only a pernicious influence; and it is pernicious precisely because it combats and seeks to destroy the religion of Christ, the true benefactor of humanity. Everyone knows how much and how beneficially religion influences society. It is undeniable that public and private morality are the foundation and strength of states. But it is in-

[*Latin ed. p. 201*]

LETTER 201: It equally establishes that without religion, there is no true morality, neither in public nor in private life. From the family, solidly established on its natural foundations, life, growth, and strength are drawn for society. Now, without religion and without morality, the domestic part-

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nership lacks stability, and the bonds of family weaken and dissolve. The prosperity of peoples and nations comes from God and His blessings. If a people does not acknowledge this, but instead rises up against Him, and in the pride of its spirit tacitly declares that it has no need of Him, that is but a fleeting semblance of prosperity, destined to vanish as soon as the Lord wills to confound the arrogant audacity of His enemies. Religion is that which, penetrating the depths of each individual's conscience, makes him feel the force of duty and impels him to obey it. Religion is that which gives to rulers feelings of justice and love for their subjects, which makes subjects faithful and sincerely devoted to them, which creates righteous and incorruptible magistrates, valiant soldiers even to the point of heroism, conscientious and diligent administrators. Religion is that which fosters harmony and affection between spouses, love and reverence between parents and children; which inspires the poor to respect the property of others and the wealthy to use their resources justly. From this fidelity to duty and this respect for the rights of others, order, tranquility, and peace arise, which are so essential to the prosperity of a people and a state. Remove religion, and all these immensely valuable things would disappear from society. For Italy, the loss would be all the more keenly felt. Its greatest glories and achievements, by which it has long held the primacy among the most cultured nations, are inseparable from religion; which either produced them, or inspired them, or certainly favored them, helped them, and gave them growth. Its public freedoms are spoken of by its communes; its military glories are attested to by so many memorable deeds against declared enemies of the Christian name; its sciences are spoken of by its universities, which were founded, fostered, and privileged by the Church, and were their refuge and their stage; its arts are spoken of by countless monuments of every kind, which are scattered throughout Italy; its works for the benefit of the poor, the destitute, and the working people are spoken of by so many foundations of Christian charity, so many asylums open to every kind of need and misfortune.

[*Latin ed. p. 202*]

202 LETTER TO ASSOCIATIONS and CORPORATIONS that have grown under the patronage of religion. The virtue and strength of religion are immortal, because they come from God; it is a treasure of aid, possessing most efficacious means for the needs of all times and of every age, to which it can wonderfully adapt itself. What it has been able to accomplish in other times, it is capable of accomplishing now as well, with a virtue that is always new and flourishing. Therefore, to deprive Italy of religion is to strike at the most fertile source of treasures and of invaluable aids. Furthermore, one of the greatest and most formidable dangers that threaten present-day society are the agitations of the socialists, which seek to tear it away from its foundations. Given this danger, Italy is not immune;

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although other nations may be more afflicted than Italy by this spirit of subversion and disorder, it is nonetheless true that this spirit is widely spreading even in its regions, and every day it gains strength. And such is its nature, so great is the power of its organization, so audacious are its aims, that it requires the union of all conservative forces to halt its progress and, with happy success, to prevent its triumph. Of these forces, the first and most important is that which religion and the Church can provide: without it, even the most severe laws, the rigor of the courts, and even armed force itself will be insufficient. As the material force was unable to subdue the barbarian hordes, but rather the virtue of Christian religion, which, penetrating their minds, extinguished their ferocity, softened their customs, and made them docile to the voice of truth and the evangelical law; so, there will be no effective remedy for the fury of unrestrained multitudes without the saving virtue of religion: which, by shining the light of truth in minds, and instilling the holy precepts of the morality of Jesus Christ into hearts, will make them feel the voice of conscience and duty, and, before resorting to force, will restrain the spirit and curb the impetuosity of passion. Therefore, to oppose religion is to deprive Italy of the most powerful aid in combating an enemy that becomes more formidable and threatening every day. But that is not all. As the war against religion proves to be most disastrous and exceedingly harmful to Italy in the social order, so, in the political order, hostility towards the Holy See and the Roman Pontiff is a source of great harm to Italy.

[*Latin ed. p. 203*]

LETTER 203: Damages. Here, the demonstration requires no further elaboration; it suffices, to complete our thought, to summarize in brief words the conclusions. – The war waged against the Pope signifies, for Italy, division within, a profound rift between official Italy and the great part of truly Catholic Italians, and every division is a weakness; it signifies depriving it of the favor and support of the most genuinely conservative element; it signifies fostering within the nation a religious conflict that never leads to the common good, but rather always carries within itself the seeds of grievous evils and punishments. – Externally, the conflict with the Holy See, besides depriving Italy of the prestige and splendor that would inevitably come from living in peace with the Papacy, provokes the Catholic enemies of the entire world, and imposes immense sacrifices upon it, and at every opportunity, it can provide enemies with an army to turn against it. Behold the well-being and greatness that are promised to Italy by those who, having it in their hands, do all they can to destroy, according to their own aspirations, the Catholic religion and the Papacy! Let it be, instead, that, with all solidarity and connivance with the sects broken, religion and the Church, as the greatest social force, are left to flourish, and the full exercise of their rights is permitted. – What a happy

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change would occur in the fortunes of Italy! The damages and dangers that we lamented above as a result of the war against religion and the Church would cease with the cessation of the conflict; not only that, but the greatnesses and glories would also return to flourish on the blessed soil of Catholic Italy, of which religion and the Church have always been a fruitful source. From their divine virtue, the reform of public and private morals would spontaneously arise; the bonds of the family would be strengthened; and in every order of citizens, under the influence of religion, the sentiment of duty and fidelity in fulfilling it would be awakened more strongly. – The social questions that currently cause so much concern would move towards the best and most complete solution, through the practical application of the precepts of evangelical charity and justice; public liberties, prevented from degenerating into license, would serve only for the good and would truly become worthy of man; the sciences, for the truth of which the Church is the teacher, and the arts, for the powerful inspiration that religion derives from on high, and which holds the secret.

[*Latin ed. p. 204*]

204 LETTER. To infuse new excellence into minds, they would quickly rise. – Having made peace with the Church, religious unity and civil concord would be more firmly established; the division between Catholics faithful to the Church and to Italia would cease, and Italia would thus acquire a powerful element of order and preservation. Having regard to the just demands of the Romano Pontiff, recognizing his sovereignty and his rights, the Catholics would be placed in a condition of true and effective independence; the Catholics of other parts of the world would no longer have reason to consider Italia as an enemy of their common Father: they, who not through alien impulse, nor unknowingly of some thing, but through sentiment of faith and the dictates of duty, raise their voices in concord to demand the dignity and freedom of the Supreme Pastor of their souls. – Moreover, Italia would gain respect and consideration among other peoples by living in harmony with the Apostolic See; which, as it made the Italians experience in a particular way the benefits of its presence among them, so through the treasures of the faith that were always diffused from this center of blessing and health, it made the Italian name greatly respected among all peoples. Italia, reconciled with the Pontiff and faithful to her religion, would be spurred to emulate her glorious past; and from all that is true progress of our age, she could not fail to receive a new incentive to advance on her glorious path. – Roma, a Catholic city par excellence, preordained by God as the center of the religion of Christ and the Seat of His Vicar, which was the cause of its stability and greatness through so many ages and such varied events, placed again under the peaceful and paternal scepter of the Romano Pontiff, would return to being what

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Providence and the centuries made it, not diminished to the condition of the capital of a particular kingdom, nor divided between two different sovereign powers, a dualism contrary to its history; but a capital worthy of the Catholic world, great with all the majesty of the Religion and the supreme Priesthood, a teacher and example of morality and civilization to the peoples. – These are not, Venerable Brothers, vain illusions, but hopes founded on the most solid and true foundation. – The assertion that is being spread that the Catholics and the Pontiff are enemies of Italia, and almost as many allies of subversive parties, is a gratuitous injury and a scandalous calumny.

[*Latin ed. p. 205*]

LETTER 20: It is clear from what we have said thus far that the Catholics are the best friends of their own country, and they prove this by demonstrating a strong and genuine love, not only for the ancestral religion, but also for their homeland, detaching themselves entirely from the sects, opposing their spirit and their works, and making every effort to ensure that Italy does not lose, but rather preserves, its vigorous faith; they do not fight against the Church, but are faithful daughters thereof; they do not oppose the Papacy, but reconcile themselves with it.

Therefore, Venerable Brothers, use all your efforts so that the light of truth may make its way among the multitudes, so that these may finally understand where their true good and their true interest lie, and be persuaded that only through fidelity to religion, through peace with the Church and with the Roman Pontiff, can Italy hope for a future worthy of its glorious past.

To this end, we do not wish to speak of those who are attached to the sects, who deliberately argue that the new order of the Peninsula will ruin the Catholic religion, but rather of others, who, without embracing such vile intentions, help the work of those by supporting their policies; and especially the young, who are so easily misled by inexperience and the predominance of emotion.

We wish to persuade everyone that the path being taken cannot be anything but fatal to Italy; and if we denounce this danger once again, it is only because we are moved by a sense of duty and by love of country. But to enlighten minds and to make our efforts effective, it is necessary above all to invoke the help of Heaven. Therefore, let our common prayer be one, and let it be a general, constant, fervent prayer, which may soften the heart of God, and may make Him propitious to this our Italy, so that He may remove from it all misfortune, especially that most terrible of all, the loss of faith.

Let us present to God the most glorious Virgin Mary, the invincible Queen of the Rosary, who has so much power over the forces of hell, and who has so often made the effects of her maternal love felt in Italy.

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Let us also confidently turn to the holy Apostles Peter and Paul, that this...

[*Latin ed. p. 206*]

206 LETTERA: Those lands, blessed by conquest, were brought to the faith, sanctified by their labors, and watered with their blood. Under the auspices of the help that we request, and with the special affection of Ourselves, We impart to you, Venerable Brothers, to your clergy, and to the Italian people, the Apostolic Blessing, which We bestow from the depths of Our heart. Given in Rome, near St. Peter's, on the 15th of October, 1890, in the thirteenth year of Our Pontificate. LEO XIII.

(Latin Version) Encyclical Letter of His Holiness Pope Leo XIII to the Bishops, Clergy, and People of Italy. From the height of the Apostolic See, where We are placed by the divine Providence to contemplate the welfare of all peoples, in Italy, to whose bosom God has placed the seat of His Vicar, moved by a singular and most profound love, and yet, alas, many grievous causes of sorrow arise for Us. Indeed, the personal offenses, the deprivations, the attacks on the liberty, tranquility, and sacred authority of the Holy See, imposed upon Us by the present state of affairs, grieve Us, nor do the injuries and mockeries, which, with impudent writings, are hurled at Us daily, escape Us. Were We concerned only for Ourselves, and were We not to see before Our eyes the ruin that threatens Italy, a holy Italy, We would endure these offenses in silence, saying, as one of Our most illustrious Predecessors wrote of himself: "If the captivity of my land did not increase daily, I would rejoice in contempt and derision." – St. Gregory the Great, to the Emperor Mauricius. But beyond the fact that the liberty and dignity of the Holy See are involved, the Religion and the salvation of the entire Nation are at stake, and that of a Nation which, from the very beginnings of the Church, joyfully embraced the Catholic Faith, and has always diligently guarded it. It is incredible, and yet true, that We have come to this point, that the Faith of Our Italy is to be feared.

[*Latin ed. p. 207*]

LETTERS 207. We have repeatedly warned of the danger, and we believe that we have not done enough. The continuous and ever more violent attacks compel us, with a stronger sense of duty, to address you, Venerable Brothers, your clergy, and the Italian people once again. We feel it deeply that the enemy does not relent, and therefore, we, who are appointed as Guardians and Defenders of the faith entrusted to our people, as Pastors and Watchmen of the flock of Christ, must, even at the risk of our own lives, and certainly to avoid losing everything else, act decisively. We do not speak of new things; for the events that have occurred are not altered; and we have already discussed these matters in detail, as the opportunity arose, from our office. But here, we wish to summarize and present, in a

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concise manner, the matters so that the consequences that follow may be properly understood by all. These events are not doubtful or controversial; they occurred in broad daylight; and indeed, they are not separate, but so interconnected that they form a certain system, of which they are a part, and which clearly reveals its purpose and meaning. This is not a new system, but rather a new audacity, a new fury, a new speed with which we see it being constantly put into effect. This has long been the objective of sects, which are called Masonic, to be carried out as quickly as possible, and which is now unfolding in Italy, especially concerning the Church and the Catholic Religion; and with the ultimate and well-known goal of completely overturning them, if possible. Today, the sects, which are called Masonic, have raised the question: the matter is already settled; the plans, the supports, the doctrines, the actions, everything is known, and so certain that there can be no controversy about them. Inspired by Satan, whose instruments they are, permeated by a spirit of mortal and implacable hatred for Christ Jesus and the Church instituted by Him, they are so inflamed that, as much as they can, they seek to undermine or, at least, hinder it. This war is being waged at the present time, more so in Italy than elsewhere, where the Catholic Religion has deeper roots; especially in this city of Rome.

[*Latin ed. p. 208*]

208 The Letters [of the Holy See] are the center and head of Catholic unity, and the Supreme Pastor and Teacher of the universal Church. The various phases of this war are, above all, remembered by him. Firstly, it began, under a political guise, with the Roman Pontiffs' Principate: but the overthrow of this, by those same sect leaders, was, through secret councils, later openly declared, aiming to attack the supreme spiritual power of the Roman Pontiffs, or at least to subject them to servitude through bonds. And who would doubt that these designs were aimed at this, when the suppression of religious Orders followed, so that evangelical workers, who assist in sacred ministries and religious assistance, are greatly diminished in number, being destined to exhibit the Faith and to propagate it among the infidels. Subsequently, young clerics were even compelled, by law, to enter military service, with the necessary consequences, and with many and grievous obstacles to the selection of clerics, and to the completion of the secular clergy and its constitution. Furthermore, ecclesiastical property was violently violated, partly being assigned entirely to the treasury; partly, enormous taxes were imposed upon it, with the very design of reducing the clergy and the Church to poverty, and of depriving them of the resources needed for their livelihood, for their institutions, and for promoting their divine apostolate. Those addicted to Masonry openly proclaimed this: "The most effective means of defending the morals of the clergy, and of the so-called clerical societies, is to deprive the clergy of all good things, and to

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reduce them to extreme poverty." Moreover, the action of the civil government against the religious and Christian character of the Italian nation is constantly directed. By laws, every official act of life, which inspires or suggests a religious idea, is generally and constantly excluded, unless it is even directly opposed; every public manifestation of the Catholic Faith and piety is either prohibited, or hindered by specious pretexts. The foundation of the family is undermined by the religious constitution, the so-called civil marriage, being proclaimed; and schools are imposed, which, from the very beginning, teach only the rudiments of letters...

[*Latin ed. p. 209*]

LETTER 209: It is entirely a secular precept that must be heard by those in the highest positions in the Archgymnasiums; and therefore, it will undoubtedly happen that new generations, as far as civil authority is concerned, will grow up without any idea of Religion, and completely devoid of the most important notions concerning their duty towards God. For this is truly striking at the root of the tree, and no other method, whether more universal or more effective, could be devised to remove individuals, families, and even citizens from the influence of the moral Church and the holy Faith. "The moral authority of the Clergy, that is, of the Catholic Church, is rooted in the people, and springs from the very sources of social life, namely, from the school and the family," this is authentically declared by the writers of the Masonic Sect. Someone might perhaps object that this does not happen only in Italy, but that it is a system of government to which all citizens generally adapt. But we reply that this does not undermine what we assert about the councils and actions of the Masonic Sect in Italy; rather, it confirms it. Indeed, such a system, wherever the same Sect carries out its own insidious and nefarious actions, is adopted and put into use; and since this Sect is widely spread, therefore, this anti-Christian system itself is widely applied in public affairs. But this application becomes more rapid and more universal in those regions where the rulers are more subject to the power of the Masonic Sect, and more readily follow its unjust dictates. And, which we consider a great misfortune, in these regions, at the present time, even this new Italy is found. However, Italy has now begun to be subjected to the influence of impious and wicked Sects; but a few years ago, certain people, having gained absolute power, dominate according to their own will, like tyrants. In the administration of the republic, as far as Religion is concerned, these Sects are completely favored and served; and as these Sects fulfill their own wishes, they find in the highest officials of the republic docile and obedient servants. Laws, which these people enact, are entirely hostile to the Church, and the plans they propose are equally injurious, and are first presented, decided upon, and definitively established in the meetings of the Sect. It is sufficient to mention any matter,

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and even two Acts, Volume XXIII, page 268, 14.

[*Latin ed. p. 210*]

210 Letters [or, Writings] which, under the guise of flattery, conceal contempt, or inflict harm upon the Church, so that the same, being readily perceived, may be promoted and made conspicuous. Among the more recent acts deserving of condemnation, we must mention the approval of certain articles in the penal code; where, with the utmost obstinacy against all just laws, certain articles were enacted against the Clergy, which, unbelievably, constitute a kind of exception to the law itself, and which, it is incredible to say, were enacted as if they were crimes, against the very sacred and holy offices of the Clergy's ministry. The law concerning pious works or institutions, which is the patrimony of all Christian charity, gathered together with the piety and religion of our ancestors, and placed under the shadow and protection of the Church, was, some time ago, proposed and enacted in Masonic lodges, and for this reason, it must necessarily inflict a new injury upon the Church, diminish its social authority, and utterly destroy the great power of the senators, which is destined for expenses related to religious worship. To this has been added the work most worthy of this sect, namely, the erection of a public monument to the infamous Apostate, Nolano. This sect has long since decreed and urgently promoted this; finally, with the help and favor of the leaders of the republic, it has been brought to completion: and those who are considered the principal interpreters of its council have openly confessed the purpose of this monument, and have not blushed to declare its meaning: "Indeed, the purpose was to insult the Roman Pontiff; but this meaning is: to wish to subject the Catholic Faith to examination, criticism, and the most absolute freedom of thought." We know very well what these words mean when uttered by those engaged in such duels. To this have been added, finally, the explanations of those who are in charge of the Italian government, and public declarations, which sound so forcefully: "The true and undeniable struggle, of which the administrators of the republic boast, is a struggle between Faith and the Church, and, on the other hand, between free examination and reason, a struggle that is absolutely relentless. And the Church will strive to fight, and will try to hinder reason and freedom, and to stand victorious: and as far as the highest leaders of the republic are concerned, they openly declare that they are standing in this struggle in opposition to the Faith, and to themselves..."

[*Latin ed. p. 211*]

"Letters" [LITTERAE] attribute to themselves the task of ensuring that the Italian government be an evident, living, and vibrant expression of reason and liberty." Oh! A sad task, which we have heard proclaimed with such audacity in similar circumstances. From these actions, which are plain

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for all to see, and from these openly declared protests, it becomes much more evident that the principal idea that governs the management of the Republic in Italy, as far as religion is concerned, is not other than that which the Masonic sect has put into effect and practice. How much has already been accomplished in this regard is not unknown; how much still remains to be done, we know well; and with great certainty, it can be foreseen that, as long as the fate of Italy remains in the hands of those who are addicted to sects, the execution of this plan will be hastened, more or less rapidly, depending on the circumstances, until its complete realization. Now, the measures being taken with some urgency, and which have long been elicited and approved in the principal Masonic lodges, both in the capital, are directed towards achieving the following goals: "To abolish all schools of religious instruction, and to establish new institutions in which even the young women are freed from any authority of the clergy; for civil government, as it ought to be, has the right and duty to shape the minds of citizens; and no gymnasium must be exempt from this vigilance." "All laws currently in force for the preservation of the so-called 'separation of church and state' and for the freedom of civil society from any authority of the clergy must be strictly defended and enforced." "The laws by which religious orders and institutions are protected must be strictly observed, and all measures must be used to make them more effective." "To dispose of the entire ecclesiastical patrimony according to this axiom, which has long been adopted, namely that it must be subject to civil government, and that its administration must belong to any civil power." "To prevent any exercise of ecclesiastical, or, as they say, clerical authority from interfering with any public administration, with any pious works, or institutions, or hospitals, or gymnasiums, or public..."

[*Latin ed. p. 212*]

In the documents of the Council, where the aims are set forth, from the Academies, from civic circles, and from legitimately constituted civil society organizations, and from committees (which they call) of the most diverse families; that is to say, from every quarter, always: for indeed, the authority of the Masonic Sect must be felt in all social activities, and it must become the mistress and arbiter of all things. "This path to the ruin of the Papacy itself is easily understood, and thus, free Italy will be delivered from its implacable and capital enemy, and Rome, which has hitherto been the center of the universal Theocracy, will henceforth be the center and head of a lay, also universal, government; and thus, the Magna Carta of human liberty will be proclaimed to the entire world." These are the authentic declarations, the votes, and the aims of that Sect, whether written or spoken. We shall not amplify these matters in the slightest: this is the condition of religion in Italy, both present and as it is foreseen for the future. To conceal this gravity would be a fatal error. We, ourselves, recognize the

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same truth, and with steadfast evangelical fortitude and virtue, we oppose it, and we draw forth those duties which the very condition of religion demands from all Catholics, especially from us, who, as shepherds, are obligated to watch over the flock and to lead the people to eternal salvation, to serve the designs of Divine Providence, and to accomplish the work of wisdom and pastoral care. As for us, the Apostolic office compels us to publicly protest against whatever has been done, or is about to be done, to the detriment of religion in Italy, and to zealously defend the sacred rights of the Church and the Papacy, which we are appointed to uphold and protect, and to openly expose the injustices that are continually inflicted upon the Church and the Papacy, especially in this very city of Rome, and which make the present condition of the Catholic Church all the more grave and utterly intolerable. Furthermore, we have firmly resolved and decreed in our hearts that we will omit nothing, as far as it is possible for us, to preserve the living and flourishing faith among the Italian people, and to constantly defend it against the attacks of its enemies. Therefore, venerable brothers, we also appeal to your zeal, and...

[*Latin ed. p. 213*]

LETTERS 213: We call upon you with a fervent love, so that, deeply moved by the dangers that threaten the people of Italy, you may diligently seek suitable remedies and accomplish all that is necessary to avert them. Indeed, no means, however insignificant it may seem, should be neglected: all the duties of words, all the efforts of action, the entire immense treasure of spiritual aids and graces that the Church places in our hands, must be employed to form the clergy properly, to instill in them the spirit of Jesus Christ, to educate the Christian youth, to eradicate impious doctrines, to boldly defend Catholic truths, and finally, to safeguard the Christian character and spirit within families, lest they be led astray.

As for the Christian people, it is primarily necessary to diligently teach them about the present state of affairs in Italy, as far as religion is concerned; then, to expose the perfidious religious struggles that are being waged in Italy against the Roman Pontiff, and to reveal the true purpose to which those struggles are constantly directed; so that the Christian people themselves, enlightened by the evidence of facts, may see how insidious are the plots being woven against the Italian people, and how the life of religion is being undermined; and that they may be convinced of the grave danger that threatens Italy, lest they be plundered like thieves from the inestimable treasure of faith.

Once this conviction is firmly implanted in their hearts, they will surely understand that, since it is impossible to please God and attain eternal salvation without faith, the matter at hand is of the utmost, indeed, we might say, of the *only* importance; namely, to dedicate themselves to that which is necessary to be achieved, even if it requires the sacrifice of life and

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blood, for each and every one is bound by the closest obligation, unless he wishes to incur the penalty of eternal unhappiness.

Furthermore, it is easily understood that, since an open war is being waged everywhere against the Church and against its members, it would be a sign of a weak spirit and a shameful disgrace to abandon the ranks and to desert those who are fighting. Rather, it is their duty to defend their position and, with a steadfast front, to demonstrate their true Catholic faith and works, responding to the faith of others; and this, both for the honor and glory of the religion, and for the glory of the Supreme Leader, whose insignia they bear; and also, so that they may not incur the greatest misfortune on the day of the final judgment, when the Divine Judge will, as we know, reject those who have not openly professed their faith: "He who is not with me is against me," Matthew 12:30.

[*Latin ed. p. 214*]

Letters should exhibit a spirit of sincerity and confidence, a manly and steadfast disposition, which certainly arises from the conviction that one is fulfilling a sacred and holy duty before God and men. When Catholics, with such fearless profession of the Faith, join together perfect filial obedience and love for the Church, sincere obedience to their Bishops, absolute and indeed devoted obedience and submission to the Roman Pontiff, it is necessary that they abstain from all things which are either the works of Sects, or which are promoted or encouraged by them; for they are certainly contaminated by the anti-Christian spirit by which they are animated. Rather, they should dedicate themselves zealously, confidently, steadfastly, and perseveringly to Catholic works, societies, and institutions blessed by the Church, promoted in every way by the Bishops and by the Roman Pontiff. And since the chief instrument used by adversaries is the widespread dissemination of books and pamphlets, largely inspired and sustained by themselves, it is the duty of Catholics to publish books and periodicals that shine with the light of truth, to offer the best books and the best periodicals for the defense of the truth, for the protection of the Religion, and for the safeguarding of the rights of the Church. Furthermore, since it is the duty of every Catholic, whether in publishing books or, especially, in exposing in their own public writings the treacherous designs of Sects, to assist and support the sacred work of the Church, to defend and promote all that is Catholic; so too it is the duty of the faithful to sustain, as much as they can, the dissemination of Catholic books and periodicals, either indirectly, namely by denying or withholding any favor from perverted books and periodicals; or directly, namely by offering whatever help and support they can, so that the dissemination of Catholic books and periodicals may flourish and prosper; and we believe that much has already been accomplished in this regard in Italy. Finally, this document, along with the two Encyclicals, one beginning with the words "Humanum

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genus," and the other with the words "Sapientiae christianae," has been transmitted to all Catholics, and especially to Catholics in Italy, to be applied and instilled. If, however, in the faithful fulfillment of their duties, anything should be omitted or abandoned, let them not despair, but rather reflect and remember.

[*Latin ed. p. 215*]

LETTERS 215 repeat the words of Christ: "The Kingdom of Heaven suffers violence, and the violent seize it" (Matthew 11:12); and, "He who loves father or mother more than Me is not worthy of Me" (ibid., 10:37). Finally: "He who loses his life for My sake will find it" (ibid., 10:39). Indeed, so many of the most valiant men, who at every time have freely offered their lives to God for the sake of the Christian Faith, are outstanding examples, chosen by the divine Grace, which makes the yoke of Jesus Christ so sweet and His burden so light, and which can powerfully encourage and sustain faithful athletes in this so excellent contest.

Now, concerning the state of affairs in Italy, as far as Religion is concerned, which is of the greatest importance to us, and which, according to our Apostolic office, we must defend, we have only considered it to the extent that it is our primary duty. But I believe it is also necessary to consider the matter insofar as it concerns the good of the entire nation and the public welfare, so that the Italians may understand that they must oppose, with all their strength, not only those who attack the true Religion, but also all those who, with false pretenses, seek to undermine the well-being of the nation.

In order that everyone may be convinced of this, it is enough to consider what future events are being prepared for the people of Italy by those whose plans they are following, and who do not conceal the fact that they intend to wage war against the Catholic Church and the Roman Pontificate, without any pretext.

Indeed, the experience of time itself clearly demonstrates this. For it is well known to everyone that, during this new period of Italian life, both with regard to public and private morality, and with regard to the security, order, tranquility, and prosperity of the cities and provinces of Italy, and finally, with regard to the prosperity and opulence of the entire Italian nation, things have happened, and are happening, in such a way that it is clear that, unless things are changed, they cannot continue in this way. Those very people who are interested in these matters do not remain silent, nor are they deceived. We, for our part, affirm that, in the present condition of affairs, which is undoubtedly sad, but in which a true necessity compels us, things cannot happen otherwise: for the Masonic sect, although it may seem to display a spirit of benevolence and philanthropy, can nevertheless only exercise a destructive influence; and this influence is destructive because it attacks and seeks to undermine the Christian Religion, which has

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so greatly benefited the human race. Everyone knows how much and in how many ways...

[*Latin ed. p. 216*]

216. Letters. Religion salutarily influences human society. It is entirely certain, and not at all a matter of dispute, that it both decorates and strengthens public morals, as well as private morals, and that it is capable of establishing the foundations of civil governments. But it is also certain and proven that, without religion, sound moral discipline, whether public or private, cannot exist at all. For the family, which is the foundation upon which all societies are built, receives its life, its growth, and its entire structure from nature itself. But if religion and the best of institutions are lacking, this domestic partnership lacks stability, and the bonds of the family are weakened and eventually dissolved. The prosperity of peoples and nations comes from God, and from His heavenly blessings. If any people or nation refuses to acknowledge God, but instead rebels against Him, exalting itself and tacitly saying, "You are not my God," then it is nothing more than a fleeting prosperity, which will vanish as soon as God wills to confound and destroy the pride of His enemies. For it is religion that penetrates the human heart and makes each one aware of his duties, and impels him to fulfill them. Religion itself inspires those who govern with a sense of justice and love for all those subject to them; it makes peoples faithful and sincerely devoted to their rulers; it creates upright and honest legislators; just and incorruptible magistrates; and brave soldiers with heroic virtue. Through religion, harmony and benevolence flourish among spouses; reverence and love exist between parents and children; and it is through religion that the poor learn to respect their betters, and the wealthy learn to use their fortunes wisely. From this faithful observance of duties and this reverence for others, tranquility and peace arise, which are of the greatest importance for the prosperity of any people and for the flourishing of civil government. When religion is removed, along with it all those things which are most precious to human society are banished. But alas, Italy is suffering a grave misfortune through the loss of religion. For the most beautiful ornaments and the most glorious deeds, by which Italy has long held the first place among all the most cultivated nations, are due to the Catholic religion, which was either the cause of them, or was inspired by them, or certainly favored and supported them.

[*Latin ed. p. 217*]

LETTERS 217. Through the efforts made at the appropriate time, and which have been increased, it is impossible to deny the progress. Public institutions and municipalities bear witness: the distinguished military decorations, the numerous Italian legions which stood against the enemy, openly avenging the glorious deeds, worthy of eternal memory, bear

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witness; the numerous Archgymnasia, founded by the Roman Pontiffs and enriched with privileges, which were a noble refuge for learning, and a most ample theater, bear witness; the countless works of art of every kind, most abundantly scattered throughout Italy, bear witness; and finally, the pious works of beneficence towards the poor, the orphaned, and the invalid, the numerous Christian institutions, the hospitals in which the needy, afflicted by any misfortune, are freely received and cared for, the numerous societies and associations of both sexes, which, under the banner of Religion, possess virtue and strength, because both come from God, are immortal: these are the treasures which possess the most effective means for meeting the needs of every time and place, to which they are adapted. What was done in other times, and what could be done, can also, with constant and robust virtue, be done now. Therefore, to remove Religion from Italy is the same as to dry up the source of countless and most fertile treasures with a single blow. Furthermore, one of the most serious and most formidable dangers that threaten civil society in the present time are, beyond doubt, the tumultuous machinations of the Socialists, who threaten to overturn it from its very foundations. Italy is not immune to this grave danger: and although perhaps other nations are more afflicted by this spirit of subversion and rebellion than Italy, it is nonetheless true that even in our regions, this same spirit is spreading day by day, and acquiring greater and greater strength. This sect is so treacherous in its nature, so stubbornly compact in its constitution, so bold in its aims, that it is necessary to employ all available forces to thwart this calamity and to hinder its progress and its triumphant success. The most important and most powerful of all these forces is that which Religion and the Church can provide: without this, even the most severe laws, the most rigorous decrees of the tribunals, would be useless and ineffective. Just as, in times past, against the

[*Latin ed. p. 218*]

218 The force of worldly power availed nothing, but the virtue of the Christian Religion, penetrating the hearts of men, subdued and extinguished their ferocity; it rendered their manners milder and more humane, and made them docile to the voice of truth and to the precepts of the Evangelical Law; thus, even now, no rebellion of the populace, however frenzied, can withstand the salutary power of Religion, which, with the brilliance of truth and the instilling of the most holy precepts of the Christian Law into the minds of men, awakens the sense of duty, and before any action is taken, restrains the impulses of the will and checks the impetuosity of desires. Therefore, to wage war against the Church is the same as depriving Italy of the most powerful aid against an enemy who is becoming more threatening and formidable with each passing day, an enemy who must be defeated without fail. But there are still other things

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that must be said. Just as, according to some, war is a great misfortune for Italy in the social order, so too, in the political order, these conflicts with the Holy See, carried on in concert with the Roman Pontiff, are a source of great harm to Italy and the origin of its ruin. It is not necessary to demonstrate this here; it is enough to state frankly what we are thinking, and to express the final conclusions of this argument in a few words. The war waged against the Roman Pontiff, as far as Italy is concerned, necessarily entails a division between Italy, which is officially called Italy, and the great part of the Italians who are Catholics: for all division is weakness; and in this war declared against the Church, Italy is deprived of the favor and assistance of those who are most sincerely devoted to the preservation of Christianity; within the nation itself, a religious conflict is fostered, which has ceased to be a source of good for the public welfare, but is always a source of growing evils, and carries with it the seed of future and most grievous punishments. On the other hand, this conflict, external to the Holy See, deprives Italy of its prestige and its exceptional dignity, which it would certainly enjoy if it maintained peace with the Roman Pontiff; it alienates the hearts of all Catholics who are scattered throughout the world, and subjects it to all kinds of deprivations, and to the most grievous ones, and makes it vulnerable to any opportunity that may arise for its adversaries to inflict any kind of harm.

[*Latin ed. p. 219*]

LETTER 219. The prosperity and the most profound honor which Italy offers, while moderating these very conditions, with all their might, strive, according to the wishes of the Sects, to attack and overthrow the Catholic Religion and the Roman Pontificate. On the contrary, removed from all connection with these Sects, and from any form of connivance, Religion and the Church, as the most powerful pillar of the Republic, would truly enjoy freedom, and, with the happy change that would occur in Italy, would be left to exercise their influence for the good of all. The injuries and dangers, which as consequences of this war waged against Religion and the Church, we have lamented, would entirely vanish when the conflict ceased. Not only that: but the most profound honor and the greatest glory, of which Religion and the Church have always been the most fertile source, would once again flourish in the Catholic Italy. From both the divine virtue of public and private life, the correction of morals would spring forth abundantly: the natural bonds of families would be strengthened, and in every order of citizens, under the moral and religious influence of the Church, the sense of duty and the fidelity due to it would be vividly aroused. Social questions, which at the present time disturb the minds of all, would be brought to a perfect and complete solution, through the practical application of the precepts of evangelical charity and justice: public institutions, which, if left to their own devices, would degenerate into license, would serve only the

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common good, and would truly become worthy of human dignity: sciences, because of the truth of which the Church is the Mistress, and the arts, because of the powerful inspiration which Religion, by divine authority, infuses into them, and which alone can give reason to the soul, would immediately attain a new excellence and dignity. Reconciled peace with the Church, religious unity, and civil concord would be more closely united: division would cease between Catholics, the Church, and the faithful, and Italy would acquire the most powerful element of order and salvation. With the exception of the just demands of the Roman Pontiff, the supreme rights of Italy would be recognized and vindicated, and with the same Roman Pontiff restored to his former condition, it would truly, fully, and completely enjoy freedom, so that there would be no reason for Catholics living in other parts of the world to fear Italy, which would be their common Fatherland; nor would they be moved by any foreign impulse, nor would they be ignorant of the thing they so desire; but with a sense of faith, and of duty.

[*Latin ed. p. 220*]

220 Letters, driven by zeal, from those who know and esteem Him who is the supreme Shepherd of their souls, raise their voices today to defend their dignity and freedom. Indeed, the concord of their lives honors the Apostolic See of Italy, and other peoples should learn from this; for the Apostolic See, as in a special way it is situated among the Italians, has bestowed benefits that have been experienced by them, and has caused the treasures of the Faith, which are the source of all blessings and salvation, to be spread abroad, so that the name of Italy may be held in respect and reverence by all nations. Italy, reconciled with the Roman Pontiff and faithful to her Religion, is rightly striving to emulate the glories of her ancestors; and whatever progress is made by the Italian nation in its most illustrious and civil endeavors, is furthered by this very thing. Rome, the holy city, the center of the Christian Religion, and the seat of the Vicar of Christ, divinely appointed, acknowledges that the stability and most illustrious glory which it has enjoyed throughout the centuries, and through so many and varied events, has been, above all, due to Rome itself, and that, placed again under the mild and paternal authority of the Roman Pontiff, it has begun to experience what divine Providence and time have wrought: not diminished in any way, so as to be a small and insignificant head; nor burdened with equal, the same, and supreme powers, which, as is commonly said, are entirely unknown to the history of this city: but worthy to be the head of the Catholic world, a great and venerable city, a teacher and example to other peoples in matters of religion and the majesty of the highest priest; a mistress and model of civil virtue. These are not vain illusions of the mind, Venerable Brothers, but hopes firmly and truly grounded.

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— Regarding the position, which has already begun to spread, that Catholics and even the Pope of Italy are enemies, and that the factions that subvert all things are almost entirely allied with them, this is a most grievous injustice and a reckless calumny, spread diligently by the Sects, so that they may cover their perverse designs with this pretext, and so that they may offend no one who, in perpetrating impious crimes, which consist in stripping Italy of her Catholic Religion, obstruct their own path. But, as it follows most clearly from what we have discussed so far, this is most true.

[*Latin ed. p. 221*]

LETTER 22: You are, that is, the best of friends to the Catholic nations, and you should show them a manly, truthful love, not only for the ancestral Religion, but also for the Fatherland, turning away from sects, and rejecting their spirit and their works, and with all your strength, you should defend [Italy], lest it lose its faith, but rather, may it preserve it with vigor; may it not suffer the Church to be harmed, but rather, may it serve it faithfully, as a daughter; may it not act hostilely towards the Papacy, but rather, may it be reconciled with it. In this, Venerable Brothers, strive with all your heart, so that the light of Truth may shine upon the people, so that they may finally understand where true good lies, and what is of the greatest importance to them, namely, salvation; may they be convinced that only through faithful adherence to the true Religion, and through sincere harmony with the Church and the Roman Pontiff, can they hope to achieve, in these times, deeds worthy of the glorious past of the Italian nation. But in order that they may realize this, we must strive, and we must not allow ourselves to be deterred by any means from acting, except by the dictates of duty and love for the Fatherland. However, in order to enlighten minds and to add efficacy to our efforts, it is necessary, above all, to implore the help of Heaven. Therefore, Venerable Brothers, let our pious prayers be united in a devout and common action; let them be universal, constant, and fervent, so that they may have a pleasing effect on the Divine Heart, and so that they may make God favorable to this our Italy, so that He may turn away from it all misfortune, and especially that which would be most terrible of all, namely, the ruin of the Faith. Let us invoke the help of the Most Blessed Virgin Mary, the Invincible Queen of the Holy Rosary, who so powerfully overcomes all enemies, and whose maternal love has so often been felt by Italy.

[*Latin ed. p. 222*]

222 Let us devoutly turn to the Most Holy Apostles Peter and Paul, who subjected this blessed land to the Faith, sanctified it with their labors, and watered it with their precious blood. Meanwhile, may the heavenly aids, which I earnestly implore for you, be a pledge of the special love and Apos-

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tolic blessing that we bestow upon you, Venerable Brothers, your clergy, and the entire people of Italy. Given in Rome, at the feet of Saint Peter, on the Kalends of October, in the year 1889, of our pontificate, the thirteenth. LEO XIII, POPE. FROM THE HOLY CONGREGATION OF THE COUNCIL OF FULGINATO. CONVENTIONS OF MORAL CASES REGARDING CANONICAL MATTERS. On July 6, 1889, and on July 12, 1890, Session 24, Chapter 12, Concerning Reforms. In the diocese of Foligno, an ancient custom prevails by which Canons and dignitaries are excused from attending cases that are presented at conventions concerning moral and liturgical matters; however, wishing to remedy the inconveniences that result from this, the Bishop requests that the Holy Congregation provide solutions to certain questions. It is best to reproduce his words in their entirety: "By the command of the Supreme Pontiffs, among whom Pope Benedict XIII stands out, it is required that all priests attend the monthly conventions concerning moral and liturgical matters. In this our age, new reasons arise which make it unsuitable to exempt Canons and dignitaries from this obligation; for 1. due to the scarcity of priests, as in our diocese of Foligno, these conventions are held in a COMPENDIUM manner."

[*Latin ed. p. 223*]

FULGINATESE. 223 and, because of the utility which the Supreme Pontiffs have prescribed, cannot be dispensed from, if Canons and dignitaries are excused from this obligation, both in attending meetings and in resolving moral questions; 2. Since necessity compels Bishops to include priests of often very limited knowledge among the Canons and dignitaries, it frequently happens that some of the Canons are present whose knowledge, with regard to the sacraments and the duties of the priesthood, is either unknown to the Bishop, or is certainly known to be insufficient. However, when the Bishop commands all priests to attend a meeting concerning a moral matter, and to resolve questions, the Canons and dignitaries claim that they are not obligated to resolve cases, either because an ancient custom excuses them, or because, they say, it is improper to equate Canons and dignitaries with other priests. But, as we have said, when the matter has reached the point where, if the Canons are excused in any way, it is almost impossible to carry out the decrees of the Supreme Pontiffs, and in no way can the knowledge of the priests be promoted, the lack of which, due to the injustice of times, becomes greater each day, I humbly request that you resolve the doubt mentioned at the end. SYNOPTIC DISCUSSION. THE CUSTOM SHOULD BE ABOLISHED. It has been noted that gatherings of this kind, in which matters of morals or liturgy are discussed, were very ancient and widely accepted beyond the mountains, where they were held before Archdeacons or rural Deans, either once or twice a year. Thomassin, *De Y. et N. Eccl. disciplina*, vol. 2, book 3, chapter 74, paragraph 10 and following, and chapter 76 throughout. These were previously unusual in

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Italy, and were first instituted by St. Charles Borromeo, Council of Milan, chapter 29, which was then followed by many Bishops, cf. the document *folium causae Treviren*, Jurisdict. 2 April 1729, and Lucidi, *de Visitatione ss. U.*, chapter 3, § 14. In particular, Benedict XIII, in the Roman Council of the year 1715, title 15, chapter 9, warned the Bishops of the Roman province, to which the church of Fulginatese belongs, so seriously about this matter: "Therefore, it is worthwhile..."

[*Latin ed. p. 224*]

224 FULGINATE. Let the Bishops exert every care and diligence, and let them not cease to do so, until Congregations, both in cities and in Dioceses, are held by all of the clergy, including secular priests, Canons, Parish Priests, and Confessors, as well as Regular priests, provided that moral theology is not taught in their convents, and that they are suspended from hearing confessions once each week, on a designated day, and under a certain monetary penalty for those who are contumacious; in these, alternately, matters of Ritual and of Conscience are presented, discussed, and practiced, according to the method prescribed by the synodal decrees, which are read in the Appendix. Indeed, as Lucidi writes in chapter 10, Pope Benedict XIII wished to inquire of the Bishops, in relation to their visits to Rome, "whether conferences on moral theology and sacred rites are held, except that the intention of the Apostolic See is that not only in the province of Rome, but everywhere, such gatherings of priests should be held." Since, through this, namely the Benedictine Instruction, the Bishops are instructed to inform the Sacred Congregation about such ecclesiastical gatherings, if obedience is to be given to the Apostolic See, as no one doubts, it follows that these gatherings of the clergy must also be held. Benedict XIV, Institutions, 32, number 7. Therefore, it is the solemn duty of the Sacred Congregation to praise the Bishops who establish such gatherings in their Dioceses, or who restore them after they have perhaps been interrupted for some time; and it will always insist and urge that, in places where such gatherings are not held, they should be introduced as soon as possible. But with regard to the celebration of these Congregations in the Diocese of Foligno, not only is this implied by a general decree, but it is also expressly and specifically commanded by a provincial law of the Roman Council under Pope Benedict XIII. Therefore, no doubt can arise in this matter, nor does it actually arise. But the question is about those who are obliged to attend these gatherings and to provide solutions to cases: the cathedral canons contend that they are not, or at least not always, obliged to provide solutions, and this for two reasons: 1. because of ancient custom...

[*Latin ed. p. 225*]

FULGINO. April 22, 1780. In obedience to his degree, for "they say it is

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improper to equate canons and other dignities with the rest of the clergy." But, on the other hand, the law prevails. Indeed, before Benedict XIII and the provincial Council of Rome held by him in the year 1725, it was debated whether canons, as such, were obligated to attend the congregations for the hearing of confessions. For, as can be found in ancient resolutions of the Sacred Congregation of the Council, as of March 15, 1692, Bishops "can compel all secular priests to be confessors, but they cannot compel others, but can urge them," and therefore not even canons, as such, but only as confessors. However, after Benedict XIII, the discipline became stricter, and it was generally declared by the Sacred Congregation of the Council that canons, although not bound by the sacred ministry of confessions, and generally those constituted in the higher orders, ought to attend these gatherings and could legitimately be compelled to do so, especially if a synodal prescription is added. Thus, in Acer, August 13, 1727; in Lariño, August 30, 1732; in Salerno, Decree of September 27, 1732; and in Fulgino, April 29, 1780, as related in the document of Fulgino, December 14, 1782, in which it was decided that the Bishop can compel all clerics constituted in the sacred orders, as well as Apostolic Protonotaries who do not participate, to attend the Congregations for the hearing of confessions, and to punish those who refuse, according to the manner defined by the Council of Rome. And indeed, the Council of Rome, in the aforementioned place, compels "all those initiated into the sacred orders, canons, parish priests, and confessors, under a certain monetary penalty." In this enumeration, since all are distinguished from confessors, it is clear that, on this pretext, none can exempt themselves from the obligation to attend the congregations. However, in the case of the canons of Fulgino, the matter is different. Furthermore, it does not seem ambiguous that all those who are required to attend can also be compelled to hear confessions. For no one, either by reason of his canonry or his dignity, is exempt from this obligation. Indeed, in the Method of Acts, Volume XXIII, page 268, it is stated...

[*Latin ed. p. 226*]

226 FULGINATEN. That synodal decree, published in the Appendix of the Council of Rome in the year 1725, and to be observed according to the order of that same Council, without making any distinction between canons and other individuals summoned to participate, states in §. 7 that at least two should deliberate concerning each case. But it is clear from the same passage that not only all those present can be compelled to participate in this, so to speak, preparatory discussion, but also in the proper, or conclusive, resolution. From these things, it is sufficiently clear that the intention of the Council of Rome was that not only a certain passive interest, but also an active participation, should be required of all those whom it compelled to be present. And this is also another practice which Benedict XIV urged for his Diocese of Bologna, in Institutiones, 32. There is a fit-

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ting reason for this discipline: since it is to be feared that those who are exempt from giving their opinion may, without even having read the case in question, attend, and thus either gain no benefit at all, or almost none, from this institution, and thus the intention of the legislator who wished them to participate will be frustrated. Indeed, it could not be denied that, in certain circumstances established by custom, a certain portion of the clergy might be excused from the obligation to respond to cases. However, as soon as such a custom, gradually changing its circumstances, brings the very institution itself, so highly recommended, into disrepute, where ignorance is fostered or sheltered, where it becomes almost impossible for the Bishop to acquire the necessary knowledge of the learning of his clergy, and where, finally, great inconveniences, such as those complained of by the Bishop of Fuligno, result from it, it is easily understood that it becomes entirely unreasonable, a corruption, and therefore not only can it be rightfully abolished, but it should not be tolerated. Thus, Benedict XIV, in his Institutiones, 32, addressed a custom in the Diocese of Bologna, whereby those who had once responded were not allowed to be dismissed from the task, unless after all the others had performed the same duty, for which reason many were certain that they would not have to undertake that province again for a long time.

[*Latin ed. p. 227*]

FULIGNO. 227. Concerning this very matter, the Sacred Congregation of the Council, in the aforementioned case of Acerra, to the question "Whether the Canons who are obliged to respond to moral cases presented in the aforementioned Congregation are subject to being drawn by lot, as is said, or whether, rather, the custom of responding should be observed," decided: "Affirmatively to the first part, negatively to the second." Therefore, if the custom of excusing Canons from resolving cases cannot be invoked, even though it is an ancient one, much less can the other argument be valid, which is put forth: "For they say that it is improper to equate Canons and other dignitaries with the rest of the clergy." But in truth, neither the Roman Council of the year 1725, nor Benedict XIV, nor other Popes, nor the Sacred Congregation of the Council, have ever considered it improper for Canons to act and discuss matters of morals and liturgy with the rest of the clergy, and to express their opinions. For Canons are not so remote and elevated from the other priests that they cannot be associated with them without detriment to their dignity. Therefore, the alleged exception is either an argument of swelling pride, or an excuse of convenient cowardice, or a confession of shameful ignorance: and therefore, it is not to be admitted in any way. On July 6, 1889, the Sacred Congregation of the Council decided to respond: "Let the matter be considered and heard by the Chapter." Then, the Canons of Fuligno, who strongly insisted on preserving the ancient custom, even though

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contrary to common law, made many concessions, both for the sake of propriety and for the sake of equity. To which the Chapter responded, or the Bishop sought to diminish the importance of those points, so that the law or common law might vindicate its force. Finally, after both sides had presented their arguments, the question was put: "Can the Bishop compel all priests, not excepting Canons and dignitaries, to be present at a meeting concerning moral and liturgical matters, and, after drawing lots, to provide solutions to the questions?"

[*Latin ed. p. 228*]

228. FULGINATEN. Let them provide [the necessary documents] either in writing or orally; or rather, let the established custom be followed in this case. RESOLUTION. After the Sacred Congregation [of the Holy Office] again discussed the matter, on July 12, 1890, it decided to respond: "The custom must be observed." From WHICH WE GATHER. The ancient custom has prevailed over the common law, and a new law of privilege has been established. DECREE OF THE ROMAN CONGREGATION, May 10, 1890, Session 24, Chapter 2, Concerning Reforms. SUMMARY OF THE CASE. Joseph Santarelli, of Rome, as patron of a certain lay chapel erected in the church of the Most Holy Stigmata in the city, in the year 1876, took action to prevent the treasury, relying on a nefarious law, from seizing the assets of that chapel. The sum due to the treasury was 649 *libellae*; but since the patron could not provide this money, the archconfraternity of the Most Holy Stigmata, to whose care the church had been entrusted, provided it: the property was recovered, and was immediately placed in the public records of the Italian treasury, and was entrusted to the confraternity for safekeeping by the patron. However, to compensate the confraternity for the 649 *libellae* paid, together with interest and other expenses, it was requested and obtained that the obligations for the celebration of Masses be suspended to the amount of 868 *libellae*. The number of Masses prescribed in the foundation was 145: the annual revenue specifically amounts to 185 *libellae*, but after deducting the tax on movable property, it decreases to 160 *libellae*; therefore, in the present situation, and indeed for some years now, the chapel's redemption has been completely satisfied from the chapel's own revenue, through a loan obtained by means of borrowed money. In this situation, Joseph Santarelli, in supplicating letters dated February 17, 1886, earnestly requested [the Holy See] to...

[*Latin ed. p. 229*]

In ROMA, the census granted to the sodality could be sold, and invested in a safer and more profitable venture, and at the same time, the expenses of the Masses could be reduced, so that, with increased revenues from this, and reduced expenses from that, the remainder could be allocated to the education of a son, aspiring to the ecclesiastical state. When the sodality

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was questioned about the matter and its customs, the patron opposed the request, and informed the S. O. C. However, with repeated insistence from Santarellio, the Archiconfraternity was questioned again, but it did not at all waver from its previously held opinion; indeed, it added that it should not permit the reduction of the Masses, because the Church lacks the application of Masses, and that the said sum yields a small return for the Masses. Nevertheless, despite this, a decree was issued on March 7, 1887, stating: "The aforementioned sum, having been placed in a safer and more profitable investment, for the purpose of reducing the expenses of the Masses, shall yield an annual sum of 800 *lire* per year, for the purpose mentioned above, for a period of three years." This decree greatly displeased the sodality; therefore, having received the necessary authorization, it immediately indicated its hope that the S. C. would revoke said decree, based on the reasons previously presented, and also considering a new document presented by Santarellio, with which, after having redeemed the chaplaincy, while transferring the census of the sodality, he had declared that he would transfer the power of the sum to the Superiors of the sodality, so that it would be perpetually preserved for the celebration of Masses in the said church. However, it appears that the confraternity did not persist for long in this plan, namely, in requesting the revocation of the apostolic decree. Indeed, from the very testimony of the pious sodality, it is clear that when Santarellius was urging the confratres to execute the decree, he was asked to present a plan for the investment. When he did so, the presented plan for the investment was not approved, but rather, it was rejected in the meeting of July 19, 1887, and therefore, the controversy was renewed, and a dispute arose.

[*Latin ed. p. 230*]

230. In ROMA, great ferment arose, although concerning a different matter, namely, regarding the execution of the rescript. For the patron declared that he must go to her, urging her; while the directors of the sodality considered this to be a harmful thing. A Synopsis of the Discussion. Firstly, there were weighty arguments against postponing the execution of the apostolic rescript. For the rescript stated that the funds of the chapel should be placed in a safer and more profitable investment; words which seemed to define the condition and manner; so that if a safer and more profitable investment were not available for the funds, but rather a worse one, then nothing should be done in the meantime, and the execution should be suspended by the very tenor of the rescript. This is the force of a condition imposed, that as long as it remains in force, or if it fails, nothing is due, L. 4 § pen. De stat. lib. 31 De condit, et démons, and L. 4 De cond. in ser. Furthermore, it appears from the very relation itself, presented by the Primicerius, that the matter was properly handled in accordance with the wishes of the Advocates of the Sodality. Moreover, it cannot be objected,

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notwithstanding these circumstances, that the rescript should in any case be demanded for execution. Since, firstly, the very Tridentine author, in chapter 5 of session 13 and in session 22, chapter 6, De reform., and according to the common teaching found in Schmalzgrueber, book 1, title 4, De rescrip. number 34, and Garcia De benef. chapter 2, number 71, we know that in a rescript, if no certain time is prefixed for execution, it must be delivered within 30 days from the presentation of the apostolic letter to the act, yet not always, nor at any time, but "unless a legitimate impediment or contradiction arises." In this case, the Ordinary must define the term for the contradiction, and, knowing the cause, must pronounce judgment on it. If the execution is delayed due to negligence or malice on the part of the executor, or under the pretext that the letter is flawed and the petitioner is wronged, then this grievance must be removed by an appeal to the patron.

[*Latin ed. p. 231*]

ROMANA 231 tionis ad Papam. Therefore, concerning the matter of obedience, according to the apostolic letters, the Primicerius appears not to have failed, but rather to have fulfilled his duty, if, when serious obstacles arose and the sodality opposed, he decided to suspend the execution of the rescript and appealed to the Most Holy Order. This conclusion must be held more firmly if it is considered that, in our case, as stated above, the matter concerned a rescript that was issued almost as if under a condition and a mode, so that, when the condition and mode were absent, it was necessary and by duty to suspend its execution, not unlawfully or offensively, but necessarily. Indeed, since, according to the moderators of the sodality, the same circumstances still persist, the execution of the rescript seems to be further postponed, at least until a safer and more suitable investment is again found. And this all the more so, because it is grave for the sodality to lose the principal of the legacy, and to provide assistance to Santarello, especially since the masses of the Chapel of Santarello have already been reduced in order, due to the necessities of the Sodality, and a portion of the alms cannot be withdrawn.

WHAT FAVORS THE PATRON. But, on the other hand, it must be considered that the apostolic rescript does not consist of a single and indivisible part, but rather of a double and distinct one: indeed, while the precept to invest the money in a safer and more profitable investment seems to have a special character, the grace is properly constituted by what follows, where the reduction of the cost of the masses, in order that the patron may receive a subsidy of 80 florins, is stipulated and confirmed. Furthermore, it is clear to no one that this gracious part of the rescript can subsist independently of the other. And therefore, when the income of the chapel reaches 160 florins, 80 florins are still available for the benefit of the patron, while half of the money remains for the application to the masses and for the benefit of the church. Nor does the sodality seem to have the right or title to prevent

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Santarello from receiving the conceded subsidy, since even that which is done without the requested and obtained permission from the Most Holy Father...

[*Latin ed. p. 232*]

232 In ROMA, the right of speaking, that is, the right of expressing one's opinion, may be lacking, and thus the possibility of objecting to Apostolic letters might be absent; moreover, it must be understood that the sodality is not the mistress or patron of the chapel, but merely the custodian of the endowment and its administrator. And although the sodality repeatedly urges the payment of money for the redemption of the chapel, which it has provided, it cannot, however, derive any benefit from this. For when the sodality has fully and completely reimbursed the sum lent, and its interest and other expenses, through the suspension of Masses, it is more fitting and appropriate to say that the chapel has redeemed itself with its own revenues; and the sodality gains little merit from this. Indeed, if anyone deserves particular praise, it is most certainly Santarello, who, while holding the endowment in his hands and being able to keep it for himself at will, nevertheless relinquished it and entrusted it to the sodality. Where, then, is the argument against the sodality? It can rightly be said, almost in a human way: if a greater merit and right belong to the patron concerning the chapel than to the sodality, then if it seemed just to the sodality to reduce its burdens and to increase the stipend for Masses for the benefit of the church, as it itself confesses, it must, all the more, have a similar benefit established and granted for the benefit of the patron. For the rights of the patron are clear. Indeed, cap. Nobis 25 De iure patr. expressly states that if the patron "is in want, he should be assisted modestly by the church, as is established in the sacred canons." And in cap. Quicumque 30 caus. 16 q. 7, it is also warned: "Whoever of the faithful has contributed something to the church from their own devotion, if they or their children should be reduced to poverty, they shall receive assistance from the same church for the support of life for the time being." Finally, the other objection concerning the uselessness of spending money on the education of a child is not valid; since this has already been judged by the Most Holy [See], and therefore it is no longer permissible to speak about it, especially without permission. Therefore, from all of this, it can be concluded, according to the second part of the rescript, which concerns the matter of...

[*Latin ed. p. 233*]

ROMANA 233, by increasing the number of Masses and providing assistance of 80 florins annually to the patron for three years, it can be optimally entrusted for execution, although the first part of the decree, which concerns the most suitable allocation of funds, could not be implemented in a timely manner. However, it may be possible to proceed further, and to

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present arguments to demonstrate that, if circumstances permit, even this first part of the decree can be put into effect. Indeed, the entire meaning of the decree, when properly interpreted, is that in the matters and among the persons in which and among whom the decree is granted, a right is established and all to whom it is addressed are obligated to observe and execute it. Cf. L. Quae ex relat. 2 C. De leg. Moreover, the controversial part of the decree, which reads: "the sum stated is to be invested in a safer and more profitable investment," clearly states not only to the patron, but also to the association, indeed, more so to the association, since the association is the custodian of the funds. Therefore, it was not sufficient to say that the patron had not found a safer and more profitable investment, but rather the association itself should have been fulfilling this duty, and should have sought whether this desired, more profitable investment could be provided in some way. However, according to the patron, there was no willingness to do so. Furthermore, considering these circumstances, when Santarellius himself had requested that the funds be invested in a rural property, it would not have been permissible, according to him, to refuse the restitution for these very reasons, namely: 1. because the income is decreasing daily, and therefore the funds for the chapel are diminishing day by day; 2. because the law regarding pious works is pressing; and therefore, the danger of losing everything is imminent; 3. finally, because the proposed investment was outside the city, on land worth ten times the amount of the loan, and therefore the investment appeared to be a safe one. With these premises, the following question is to be considered: Whether and how the decree of March 7, 1887, should be demanded for execution in this case. RESOLUTION. The Sacred Congregation of the Council, after deliberation, decided on...

[*Latin ed. p. 234*]

ROME, May 10, 1890. It was decided to respond as follows: It should be consulted with the Most Holy Father, so that, having taken into consideration the clause concerning the placement of funds in the most advantageous investment, He may grant the authority to the Congregation to concede a further reduction in the number of Masses, in order to provide the requested subsidy to the aforementioned orator; and concerning the IRREGULARITY in Vratislavia, on August 9, 1890. The Bishop of Vratislavia, in these letters recently presented to the Holy See, writes: "Most Holy Father, I humbly present to Your Holiness the case of the aforementioned orators, Henry Bienau, Edmund Holthoff, Francis Forsshe, Joseph Golenia, Bernard Ioppich, and Anthony Bugiel, who reside in my clerical seminary within the diocese of Vratislavia, which is under Prussian jurisdiction, and who most earnestly desire to receive the sacred tonsure and the orders. However, since these aforementioned orators, who were formerly students at the University of Letters in Vratislavia, have been involved in duels,

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namely, Henry Bienau once participated in a duel, and fifty-five times either assisted or witnessed; then, as spectators, Joseph Golenia once, Francis Forsshe twice, Edmund Holthoff and Bernard Ioppich several times, and finally, Anthony Bugiel four or five times, either by inciting or accepting a challenge to a duel, they appear to be irregular. However, the question has arisen as to whether they are irregular due to a defect of reputation, according to the Holy Council of Trent, Session 24, Chapter 19, De ref., or due to a defect of gentleness. In such cases, up to now, according to the common opinion and practice prevailing in the city and diocese of Vratislavia, a defect of gentleness has been considered to be present; since a duel, as it is usually committed among university students these days, is rather considered a reckless game, devoid of any real danger to life, than a matter of great importance, and the spectators..."

[*Latin ed. p. 235*]

WRATISLAV. Often, these [duels] are undertaken more out of curiosity than out of consent. His Eminence, absolving those lacking gentleness, as He did to My predecessors, so also granted me this faculty on June 23rd of the past year. But so that any doubt in this matter may be removed in the future, I humbly beseech Your Eminence to graciously declare from which irregularity dispensation should be granted in such a case. *Disceptatio Synoptica*. Before the legal proceedings on this subject, certain things were noted regarding the nature and manner of these duels, which are common among students, especially in the German universities. Sometimes, indeed, duels occur among the students of those academies in the same way as in other regions. But mostly, it is not so. School duels, which are also called by a special name, consist in the fact that those who duel, using special weapons, that is, a small dagger, and with other parts of the body well protected, inflict a cut or wound on the face, the traces of which, however, are usually erased in a short time. Therefore, death or mutilation is never intended, and these sad events occur very rarely, and only by accident, through imprudence, or through some other external cause unrelated to the duel. Nor are these duels always committed properly out of revenge or to restore honor, but rather, as Iude, who was certainly cruel, or for the sake of practice. Indeed, there are societies among university students, under the guise of this Iude or practice, in which a certain number of duels must be held in order to obtain a higher degree, and, after a time without duels, the presidents of the societies convene, inventing pretexts for holding duels. Generally, Catholics abstain from these acts, but not always, because, as the Archbishop mentions in his book, such duels are rather a game.

[*Latin ed. p. 236*]

236. WRATISLAVIA. This [practice] lacks all prudence and exposes one to danger, which are matters of great importance. Those who engage in

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duels are seen to be guilty of infamous acts against the law. Therefore, the Prelate inquires concerning these contests, whether they involve irregularity, and whether this arises from a lack of clemency, or rather, from some other defect. We are entering a very complex matter; for "the knowledge of irregularity is difficult and perplexing, not in itself, but because many things are turned upside down and distorted," as Sayrio Emus d'Annibale notes in his *Summula*, Vol. I, p. 400, edition 3, note. An argument for this is found in the very petition presented here. For it is stated, indeed, it is commonly accepted, that in the duels of students, irregularity arises from a lack of clemency. However, irregularity arising from a lack of clemency occurs only in those cases where a person is justly subjected to the judgment of blood, that is, to death or, as formerly happened, to mutilation, either by their own free will and with public authority, or by those who, in a just offensive war, kill or mutilate the enemy. Furthermore, in these cases, irregularity arises only when death or mutilation actually results. These are common opinions among the most esteemed Doctors, such as Reiffenstuel, in *De Errore*, Book 5, Title 12, § 3, n. 75; Ferraris, *V. Irregular.*, article 1; and Emus d'Annibale, *I. cit.*, p. 423 and following. In short, a lack of clemency is present whenever human blood is shed justly, either in war or in a capital case. But in duels, none of these things are present, for human blood is shed not in a public offensive war, not by a formal judgment, but unjustly and most cruelly, by private will and a cruel reason. Therefore, it is so far from the case that the question in these contests is about a lack of clemency, that it is more likely that irregularity arises from a crime. Whenever, from a duel, homicide or mutilation results, besides other penalties, it is clear to no one that irregularity arises from the crime of homicide or mutilation. Emus D'Annibale, *Comment.* ad *Const. Ap. Sedis*, n. 102.

[*Latin ed. p. 237*]

WRATISLAVIA. 237. Truly, the duels, concerning which the question arises, do not seem to extend to such extremes among students; for death can never result from them except by accident, and mutilation, which is the severing of some member, such as the eye or the arm, is said to occur only in extraordinary and very rare circumstances. Furthermore, since irregularity is not incurred in these cases unless the consequence follows, that is, the loss of an eye, the amputation of an arm, etc., or death, it is now a question to be examined in each individual case. Irregularity is incurred from a fault when death or mutilation occurs; it is not incurred when these things do not occur. But the penalty, which is always attached to duels, and from which the particular stain of irregularity arises, is infamy. Indeed, the Council of Trent, in Session 24, Chapter 19, declared that those who engage in duels and their sponsors are to be considered perpetually infamous. "Those who have committed a fight, a duel, and those who are called their sponsors, shall incur the penalty of excommunication, and the loss of all their goods,

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and perpetual infamy." Indeed, infamous persons are irregular, and are therefore prohibited from receiving ecclesiastical orders. Canon, fin. dist. 51; canon, Infames, causes 6, 9, 1; Reinffenst., L. V., t. 37, n. 59; Ferrar., v. Infamia, n. 12. And since we are speaking of the infamy of the law, the penalty is incurred by the very act of committing the offense, and can only be removed by the authority of the Prince or by a pontifical dispensation. Ferrar., I. c. 22, with a distinction. With these things established, it must be considered whether the duels, concerning which the question is raised, are included in this law of Trent. Moreover, weighty reasons arise that suggest an affirmative answer. For all the elements that the Doctors require for a duel seem to be present in our case. "A duel properly so called, or a monomachia, is a fight begun between two or more persons in equal number, by private authority, and according to a challenge, a fixed place, and time, with the danger of death, mutilation, or injury." Thus, Ferrar., v. Duellum, n. 1.

[*Latin ed. p. 238*]

-238 WRATISLAVIEN. A duel, says Lehmkuhl, is called a singular combat, undertaken with weapons suitable for killing or seriously wounding. *Theol. mor. vol. i, n. 850.* Furthermore, this definition is generally accepted among authors. Ferrar. *I.e.*, indeed, all the elements of this definition are verified in the case we are discussing. Although there is no danger of death, nor properly speaking of mutilation, there is nevertheless a certain danger of injury: which seems sufficient to consider this fight between students as properly a duel. Moreover, for it to be a duel, it is not necessary that it be fatal; for Clement VIII decreed in his Constitution *Illius vices anni* 1592, that those duels which are properly called duels, and those subject to their penalties, are also to be considered those which are entered into "with the intention of settling the dispute, when one of the parties has been wounded or has shed blood." Indeed, Benedict XIV condemned the following thesis in his Constitution *Detestabilem* of 1725: "Those who accept a duel, or provoke it, for the sake of defending their honor or avoiding contempt, can be excused, when they certainly know that the fight will not follow, as it can be prevented by others." Therefore, a duel seems to occur, even if there is no danger of death or mutilation. Furthermore, these savage contests, of which we are speaking, are contrary to right reason and to ecclesiastical laws, for the same reasons, as if they were undertaken with the danger of death or mutilation. Although they sometimes appear not to be undertaken properly for the sake of taking revenge or restoring honor, they are nevertheless always undertaken, at least in appearance, for the sake of taking revenge or restoring honor, and they open the way to more serious duels with the danger of death and mutilation. Moreover, it is by no means permissible to engage in a duel solely to demonstrate one's spirit, strength,

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or skill in fighting, as is clear from c. 1 *De toreament.* Reiffens. ad lib. 5 Decret. 14, n. 36. From this, Emus D'Annibale concludes in *Sum. edit. 2 vol. 2 p. 207*; "If none of these are lacking, namely, 1. a singular contest, 2. undertaken by agreement, 3. with lethal weapons..."

[*Latin ed. p. 239*]

WROCLAW. 239 It makes no difference what the cause was for engaging in the duel, be it, for example, for the sake of spectacle, as in times past, or to display courage. "Indeed, when Doctors explicitly discuss the requirements for those who incur penalties in duels, they certainly also consider the danger of death and mutilation, as well as the danger of injury. Therefore, Pignatelli states: 'It is required that the duel be undertaken with the danger of death or injury. For duels are prohibited under penalties because of the grave danger of death, or mutilation, or injury.' Thus also Ferraris, I, c. n. 6. Therefore, it seems to follow from these statements that those who engage in duels, and their parents, incur a legal infamy. It cannot be objected that those who engage in such duels are not actually noted with this infamy, and therefore do not incur the irregularity. For legal infamy is for the correction of morals, as a punishment for the crime, and for the eradication of the detestable practice of duels!" This cannot be undone by any custom or common opinion that contradicts it, as introduced by the Council of Trent. For such a custom would undermine the very foundation of ecclesiastical discipline, and therefore, according to chapter 5 on customs, it is invalid. This conclusion is further strengthened by analogy. Indeed, some authors have held and taught that in those regions where public and common infamy does not follow from heresy, converted non-Catholics are not considered irregular, and can be admitted to the sacred orders without difficulty. Layman, L. 1, tract. 5, p. 5. But how much this is contrary to the mind of the Church is evident from the response of the Holy Office of July 11, 1884, to the Bishop of Harle, to whom the decree in Posen, dated July 25, 1866, was sent, in which it is written: 'The children of heretics, who persist in heresy and are dead, are irregular, even in Germany and in other places where heresies flourish openly.' Zitelli, Appo, r. iur. eccles., gag. 349. A similar argument can be made in the matter of duels. And therefore, although the insane judgment of the multitude may not recognize this crime as an infamy, nevertheless, and even more so, the Church pursues it with legal infamy, and punishes it with other penalties, and seeks to eradicate it.

[*Latin ed. p. 240*]

240. REGARDING THOSE WHO ARE PRESENT AT DUELS. THOSE WHO ARE PRESENT AT DUELS ARE NOT CONSIDERED TO BE SUBJECT TO THE INFAMY OF THE LAW. However, it must be considered that we are dealing with a matter that is odious; for it is a question of

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punishment, and "in punishments, a more lenient interpretation must be given" from Reg. 49 jura in VI, that is, a strict one, and not beyond what is expressly provided for in the law or sentence. With this principle established, it is clear in the first place that spectators, and even those who cooperate in duels, are not subject to the infamy of the law. Indeed, the Council of Trent, cited above, states: "Those who commit a duel, and those who are called sponsors thereof, incur the penalty of excommunication and perpetual infamy." Therefore, although "accomplices vel qualemcumque operam aut favorem (duello) praebentes nec non de industria spectantes illudque permittentes" [those who provide any kind of assistance or favor to the duel, or who watch it with eagerness and allow it to take place] are subject to excommunication reserved to the Holy See, according to the special prescription of the Apostolic See, and according to the final article of chapter 19 of the Council of Trent; nevertheless, since there is no mention of these individuals in the preceding article of the same chapter, where the penalty of infamy is discussed, it must be concluded, according to the legitimate rules of interpretation, that accomplices and spectators of duels are not subject to the penalty of infamy; and therefore, in the case of students of the Seminary who are not guilty of any crime other than that of being spectators of duels among students, even if these duels are those that the Council of Trent considers worthy of the stigma of infamy, it must be said that they are not subject to the penalty of infamy. But further reasons for doubt remain, as to whether those who commit the duel or act as sponsors thereof are exempt from the penalty of infamy, in the case of these student duels of which the question is made. Indeed, in order for the infamy to be imposed on those who duel, it is first necessary that there be a true duel; for whenever the matter concerns a different kind of contest, the nature of the crime changes, and the penalty is not incurred. "As for the penalties of dueling, they are established by its own laws, and if these laws are not observed, the duel is not understood in its proper and strict sense, and the penalty ceases" (Emus D'Annibale, Commentary, n. 102). These are, of course, elementary principles, and they flow plainly from the principles that are observed in the interpretation of penal laws.

[*Latin ed. p. 241*]

"In Wratislavia, the 24th of April. Indeed, there are some, and not a few, distinguished Doctors who, concerning what is properly called a duel, or that which is intended by the decree of the Council of Trent, expressly require the use of lethal weapons, or that there be a danger of death or mutilation. Let us recall Emilius D'Annibale, who in his *Summa*, page 207, volume 2, edition 2, writes thus concerning the duel: "A duel is defined as a singular combat with lethal weapons, undertaken by agreement. Therefore, it consists of 1. a combat between individuals... 2. it must have been undertaken by agreement... Finally, 3. it must be fought with lethal

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weapons. Therefore, if the combat is refused with fists, clubs, or edged weapons, the duel ceases, even if death should follow by accident." - "For a duel properly so called," says Reiffenstuel in title 14, book 5, number 12, "it is required that it be carried out or instituted with a danger to life, or with such a manner of fighting and type of weapons, that the participants face a danger to their lives." Similarly, Schmalzgrueber, Code, title, number 45, and Pascuccius, notes on Pigliateli, volume 1, title on duels, in Ferraris, I, chapter, number 6. It does not contradict this that many authors teach that the danger of a wound is sufficient for a duel properly so called. For they seem to speak primarily of such a wound that is connected with a danger to life; or they speak of a duel according to the commonly understood circumstances, in which, although death is excluded by a prior agreement, it is nevertheless always possible. And perhaps this is what is stated in the constitution of Clement VIII, cited above, concerning non-fatal duels. Finally, in the decree of the Council of Trent, where the penalty of infamy is established against those who engage in duels, explicit mention is made of a "monomachia" joined with the danger of death - there: - "The deplorable practice of duels, instigated by the devil, seeks to destroy souls even as it brings about the death of bodies." And below: "Those who have engaged in such a combat, and those who are called their sponsors, shall incur the penalty of perpetual infamy, and shall be punished as murderers according to the sacred canons, and, if they should die in the very conflict, they shall be deprived of ecclesiastical burial forever." Therefore, it seems that the decree of the Council applies only to a duel that involves the danger of death. Acts, Volume XXIII, page 268, number 16."

[*Latin ed. p. 242*]

242. WRATISLAVIA. It appears that a small sword, with which a particular contest is held among students of schools, does not present, at least not immediately and easily, the danger of death. And therefore, it does not fall under the prescription and penalty of the Council, especially since we are dealing with a matter that is odious. With these things presupposed, the question was posed: Whether, by whom, and from what title, irregularity arises when a duel is committed in this manner, as is commonly done among the students of the Universities of Germany in these times.

RESOLUTION. The Holy Council, after discussing the matter on August 9, 1890, decided to respond: Affirmative, by those who strike and their sponsors, from the infamy of the law.

FROM WHICH IT IS UNDERSTOOD:

I. Irregularity concerning the reception of orders or the exercise of the same ministry can arise either from a lack of lenity or from the infamy of the law.

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II. From a lack of lenity, irregularity arises whenever human blood is shed, justly or in war or in a capital cause, with the following consequence.

III. Those who duel, and their sponsors, become irregular from the infamy of the law; who, therefore, are prohibited from receiving the sacred orders, without pontifical dispensation.

IV. A duel properly so called is a fight begun between two or more, in equal number, by private authority, or by challenge, in a designated place and time, with weapons suitable for killing or seriously wounding, with the danger of death, mutilation, or serious injury.

V. For a duel, the law provides and subjects the duel to penalties, that fight in which only the danger of injury exists; and which is begun with a pact to end the contest, as soon as either of the combatants is wounded, or blood is shed.

VI. It seems to be without doubt that all the elements that are proper to true duels are present in duels with swords; for savage are those contests that are contrary to right reason and to the laws of the Church.

[*Latin ed. p. 243*]

WRATISLAVIA. 243. Hoc agitur ex causis talibus, quasi si cum periculo mortis aut mutilationis institueretur. VII. Nihil refert, ad verum duellum constituendum, an initium sit spectaculi, ut olim, aut virtutis ostendendae causa; sed tantum requiritur ut sit singulare certamen, susceptum ex pacto, et armis lethalibus, ut duellantes et patrini censuris subiiciantur. (1) VIII. Etiam ex haeresi nascitur infamia iuris; ita ut filii haereticorum irregulares habeantur si patres eorum in haeresi perseverant, aut in eadem demortui fuerint.

FERETRANA COMMUTATIONIS VOLUNTATIS. Die 14 Iunii 1890. Per Summaaria Praeum.

COMPENDIUM FACTI. Suprema, quae die 8 Octobris 1888 decessit, Carola Scavolini ex oppido S. Marini, heredem nuncupavit famulam suam, nomine Angelam Rinaldi, quam habebat carissimam. Et disposuit ut summa 1250 libellarum, quam mutuis lucrativis collocatam habebat, impenderetur in funerum expensis, et in missarum officiis celebrandis, partim in ecclesia Cappuccinorum, in qua tumulari petiit, partim in aliis suburbii maioris S. Marini ecclesiis. Insuper voluit ut unicum suum praedictum, vulgo Baldasserone, antequam ad heredem traderetur, per decem annos ab executore testamentario administraretur, eiusque fructus in totidem missas in ecclesia Cappuccinorum celebrandas erogarentur. Huiusmodi fructus 115 annuis libellis locati sunt. At vero haeres, Angela Rinaldi, suppliciter postulat, ut enunciati praedii administratio sibi statim ante lapsum decennii tribuatur, ut arte et industria sua maiorem reditum.

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(1) Confer Vol. XVII, 601.

[*Latin ed. p. 244*]

244 FERETRANO may be able to elicit [a favorable response]; and she also prays that, rather than expending the annual income of the property until the end of ten years for the application to Masses, she may be permitted to establish a perpetual endowment of 500 *libellae*, with the obligation of celebrating four Masses on the feast day or the eve of Saint Joseph in the church of the Consolation in that suburb. And finally, she requests that, of the aforementioned productive sum of 1250 *libellae*, only 1000 *libellae* be applied according to the will of the testatrix; and that 250 *libellae* be used for the restoration of the presbytery of the same church of the Consolation. The Bishop, having been asked for his opinion and information, among other things, reported that the archpriest of Saint Marina and the executor of the will had given their consent to the prayers: "As for the Capuchins, from a declaration expressed in writing, they do not appear to object." The supplicant, having been married according to the advice of her lady, now has four children, and is burdened by not insignificant hardships; for her husband has been residing for some time in the asylum of Pisaurensi, and the family property has been burdened by debts. For this reason, the supplicant prays that she may be allowed to transfer the hereditary property, to sell it, to free the husband's property from mortgages with the proceeds, and thus restore the family affairs. Therefore, considering the miserable condition of this supplicant, the Bishop believes that her prayers can be granted, albeit with a slight modification, namely that: "1. The hereditary property, with the obligation of paying 500 *libellae* to the pious association of the church of the Consolation, should be immediately transferred to the supplicant, which sum shall be invested in a lawful, safe, and profitable investment; and the income from it shall be used to celebrate the office of four Masses on the eve of Saint Joseph in suffrage for the testatrix and according to her wishes, and two other Masses on the feast day of Saint Joseph, perpetually: "2. 325 *libellae* shall be applied to Masses for the soul of the testatrix, partly in the church of the Capuchins, and partly in other churches of the suburb; and the remaining 250 *libellae*, which would exceed the sum of 1000 *libellae*, shall be partly disbursed, and partly..."

[*Latin ed. p. 245*]

"FERETRANA 245, as stated above, the necessary and appropriate funds and improvements for the church of Consolation should be applied." *Disputatio Syiioptica*. It was observed that the petitioner, in her prayers, intended partly to seek assistance for herself and her affairs, and partly to benefit the church of Consolation. To alleviate her sad condition, she requests only one thing: that she be granted immediate possession of the

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hereditary estate, so that she may sell it and free herself from debt. However, she promises to give 500 *libellae* to the church from the sale price, and furthermore, from the ten-year yields of the aforementioned property, paid after the death of the testatrix, at least 230 *libellae* have already been paid; for the testatrix is said to have died in the year 1888; therefore, it does not seem to be a serious violation of the will. Moreover, since 500 *libellae* are to be paid immediately, some compensation and benefit may arise from the interest. Furthermore, since the petitioner is the heir and is in great distress, it seems just to assist her through a reduction in the bequests, and it may even be in accordance with the intentions of the testatrix herself. Likewise, since the church of Consolation is crumbling and lacks the means to support its worship, it seems pious to assist that church, either by establishing a perpetual mass endowment there, or by spending 250 *libellae* on the repair of the building; especially since we are dealing with a church located in the suburb of S. Marini, which has recently been elevated to the status of a parish, and which needs more assistance; and even more so because the Ordinary has accompanied her prayers with his favorable support, and the Capuchin order does not seem to object. To change the wills of testators, a just reason can indicate the great poverty of churches, or the necessity of divine worship, not obscurely, as shown in Tridentinum, session 21, chapter 8; session 24, chapter 13, and elsewhere. Finally, the same petitioner mentions that she erected and consecrated an altar of St. Joseph, B.M.V., in the same church of Consolation.

[*Latin ed. p. 246*]

246. Regarding the furnishings, he believes that this, too, will earn him greater consideration in his prayers, and he promises that it will be easier for him to obtain what he requests, because he demands this benefit for the church and for the public adornment of divine worship, and not for his own advantage. However, lest the prayers of the petitioner be heard to the detriment of both himself and the church of Consolation, the well-known laws must be observed, which require that the wills, especially those of the recently deceased, be preserved intact and unadulterated. With these premises, the question of how to respond to the prayers was considered. RESOLUTION. The Sacred Congregation, after examining the matter, decided on June 14, 1890, to respond: "For the purpose of alienating the hereditary property under the condition that the sum of five hundred livres, deducted from the price, be given to the Ordinary, and that, as soon as it is paid, it be used for the celebration of Masses, according to the intention of the testatrix; as for the rest, it is not necessary."

K < ^ > MELEVITANA LOCATIONIS. On August 6, 1890, through summary prayers, Henry Zerafa, who died leaving behind tables from the year 1669, established a chaplain for the Blessed Virgin Mary of Gratiarum in the city of Conspicua, along with certain obligations, and also appointed

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a procurator to administer the property, to whom he bequeathed "the dwelling houses in that place where the testator presently resides and dwells, so that he may live there without any payment in satisfaction of his work." With the passage of time, it is unknown whether this was done legitimately or illegitimately, this house, together with the adjoining pharmacies, was granted in perpetuity to the third generation, which occurred on June 10.

COMPENDIUM FACTI.

[*Latin ed. p. 247*]

MELELEANA 247] ii 1845, iterum per 99 annos renovata est; et interim, capellae procurator, loco habitationis, canonem percepiebat. Anno vero 1875, cum idem procurator domum ab emphyteusi redimere optaret, mutuum 20,000 libellarum, praevio legitimo permissu, ut ait Episcopus, et obligato totius haereditatis asse, contraxit. Tam ingens pretium solvere necesse fuit propter magna domus melioramenta, quae ultimus emphiteuta perfecerat. Interim, redemptam domum procurator locavit, et ex pretio, partem antiquo canoni plus minusve aequiparem sibi vindicavit, reliquum vero in extinctionem aeris alieni attribuit. Hinc factum est ut aes alienum ad 17 millia circiter libellarum hisce annis descenderet. Nuperrime autem, vetere administratore defuncto, cum novus, qui eidem successit, in decessoris usu perseverare optaret, domum aliis locando et partem pretii percipiendo; nescitur qua de causa, id sibi non licere putavit, et credidit, una simul cum Episcopo, quod procurator proprie ius tantum haberet habitationis in dicta domo: hinc supplici libello a S. C. C. petiit, ut sibi indulgeatur facultas percipiendi pretium locationis, loco habitationis a fundatore sibi concessae. Episcopus preces commendat, ac proponit ut cum locationis pretium 500 circiter libellis aestimetur, 300 circiter in extinctionem aeris alieni cedant, sicut usque modo contingit, 200 vero administratori tribuantur; quae proportio a curiae perito iudicata est respondere pretio ad emphiteusis redemptionem mutuato.

Disceptatio Synoptica. Super his breviter animadversum fuit, quod usuarius quidem de re data uti dumtaxat potest, non autem aliis locare; at qui ius habitandi habet, idest legato fruitur, omnem fructum ex partibus habitationi destinatis percipit, ex 13 c. De usufructo, et aedes potest pro lubitu cuilibet locare, prout expresse cavet § 5 Inst. De us. et habit, et /. 13 sup. cit.

[*Latin ed. p. 248*]

248. Regarding the matter that must be maintained with greater firmness, if, as happened in the case at hand, a grant of housing has been given as a form of payment and reward for labor. A certain difficulty arises from those words of the testament, in which the house is and said to have been

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given to the administrator "so that he may dwell in it." However, these words do not have a meaning of exclusion, nor do they expressly prohibit a lease, which the laws permit; therefore, these words appear to cause no harm and do not impede the statutes of the law. Neither does the division of the price proposed by the Bishop seem unjust, and which has been observed up to now; for since the price of the lease increases to the actual sum because the house has been improved, it seems just that, in the meantime, and as long as the borrowed money remains outstanding, a portion of equal value be paid towards the extinction of the debt. Having considered these matters, the question was raised as to what should be answered in the case. RESOLUTION. After considering the matter, the Sacred Congregation decided on August 9, 1890, to respond: For the sake of expediency, according to the opinion of the Bishop. FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS. The episcopal table of Ariminen is largely constituted by annual contributions of sifted wheat, which are called "decimas," and which are almost entirely paid by all the parochial churches of the diocese. In addition to this diocesan arrangement, the parochial church of the locality of Monacano commonly contributes 15 sacks of wheat. COMPENDIUM OF THE MATTER. TWO.

[*Latin ed. p. 249*]

ARIMINEN. 249, book 19, 15, concerning the payment to the Cathedral chapter, the Bishop is obligated to pay annually from a time which they call "unmemorable." However, when the current parish priest, P, in the year 1885, refused to pay part of this obligation, amounting to 279.15 lire, and also refused to pay the full obligation for the years 1886-87-88, the Bishop, on November 19, 1886, assigned a credit to a certain Bonini, which he held against the aforementioned parish priest, and which consisted of the aforementioned remaining amount for the year 1885 and the full obligation for the year 1886. In order to recover his credit, Bonini brought the parish priest before the court in the town of Saladecio. Before the day arrived when the parish priest was to appear in court, he appealed to the Sacred Congregation for Bishops and Regular Canons, explaining that he could not pay the annual obligation to the Cathedral chapter, both because the parishioners, due to changed circumstances, were unwilling to hand over the tithes to the parish priest, and also because the parish rectory was burdened with heavier expenses than before. He therefore requested that the Bishop be persuaded to adopt more lenient measures, and that, in view of the civil lawsuit brought by Bonini, he would accept the payments that the parish priest had been able to provide, due to the changed circumstances and the heavier burdens imposed on the parish rectory. However, the Bishop opposed the parish priest's request for a reduction in the obligation, and informed the Sacred Congregation that the parish priest owed the Cathedral chapter 15 sacks of grain, which was clearly documented in the parish

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records, both old and recent, as well as in the records of the Cathedral chapter, both ancient and recent; and furthermore, it was evident from the current instrument of possession given to the Bishop. He added that in this case, it was not a matter of true tithes, or of the burden of parochial and sacramental tithes, but of a payment by which all the goods of the parish, without distinction, contribute to the benefit of the Cathedral chapter. Since the matter could not be resolved fairly, as the Sacred Congregation desired, due to the parish priest's tergiversation and reluctance, the Bishop, in order to expedite matters, requested that the controversy be settled by legal proceedings before the Holy Office, so that...

[*Latin ed. p. 250*]

250. ARMINEN. Whether the example of the parish should be given to other parishes in the same situation.

The Synopsis of the Case: The parish priest, adhering to the authority of Reiffenstuel and Ferraris, argues that the Bishop is only entitled to one-fourth of those things which are subject to tithes. Having established this in law, he states that the canon imposing a contribution for the benefit of the Bishop's table is not in accordance with the law. To prove this, he observes that the measure of 15 sacks of threshed wheat, which the Bishop seeks to claim, corresponds to a measure of 20 sacks of unthreshed wheat. Indeed, since it is certain that the tithes of the parish of Mondami, when collected together, do not exceed a measure of 40 sacks of unthreshed wheat, it follows of its own accord that if 15 sacks of threshed wheat were granted to the Bishop, he would not be claiming one-fourth, as the laws prescribe, but half of the things subject to tithes, which is contrary to the law. Furthermore, he notes that the judgment of the tribunal of the city of Spoletanae exists, which exempts those who contribute from paying tithes imposed on seeds. Therefore, since the judgment remains in force, he argues that the tithes of the parish of Mondami, when collected together, have been reduced to 25 or 30 sacks of wheat. Indeed, if, as the laws prescribe, the Bishop is only entitled to one-fourth of all tithes, it necessarily follows that the Bishop can only claim 7 and a half sacks of unthreshed wheat. However, setting these things aside, he maintains that the canon claimed by the Bishop, apart from that established in book 19,15 concerning the Cathedral, is a very heavy burden, even when all the revenues to which the parish is subject are taken into account. Since the strictly parochial goods consist of some small plots of land of little value, and since these are located in the barren territory of Mondami, they bring very little benefit to the parish priest. Moreover, it is stated that the parochial goods consist of three small fields, by which the priest Venerucci has a perpetual chaplaincy in the parish.

[*Latin ed. p. 251*]

ARIMINEN. 25. Hoc curae ecclesiasticae constituit, ex eo quod pius

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fundator tot missas celebrari iussit, quot huiusmodi agrorum reditus sustinere* valent. Praeterea, observat, quod, admissis praetensibus Episcopi, id quod sibi superest satis haud sit ad sustinendas expensas quae necessariae sunt, ut frumentum e loco Mondaino ad minimum transferatur, ad solvendam taxam vulgo *ricchezza mobile* et alterum *manomorta* dictam; quarum prima ad *lib. 100*, secunda vero ad *lib. 65* assurgit; et alias gravissimas taxas sive reales sive personales, nec non expensas cultus et illas quae pro Capellano sustentando exiguntur. Quibus omnibus si addatur, quod omnibus indistincte individuis Parochiae panem die commemorationis mortuorum distribuere et singulis familiis, iuxta cuiuslibet conditionem, candelam praebere debeat; quilibet, ait, mirabitur nec intelligere valebit, quomodo Mondaini parochus tot oneribus gravatus et aliis proventibus parochialibus destitutus vivere possit. In his angustiis constitutus, haud mirum esse inquit, quod partem tantum praestationis mensae episcopali debitae persolvere petat: nemo enim ad impossibile tenetur. Imo asserit, quod hac impossibilitate attenta, nedum ab aliis Episcopis canonis diminutionem obtinuit, verum etiam ab ipso Gubernio, modo subsidia, modo condonationem debiti impetravit. Qua de re, enixis precibus expostulat, ut canon, favore mensae Episcopalis constitutus, ad 10 saccos frumenti reducatur, et insuper praebendae parochiali subsidium annuum ex bonis ecclesiasticis depromendum tribuatur.

QUAE EPISCOPO FAVERE VIDENTUR. Ex altera vero parte, Episcopus Ariminen pro viribus sustinet frumenti praestationem in ea mensura, quae ab ipso exigitur a parocho Mondaini persolvendam esse, ex eo quod, a pluribus abhinc saeculis, ab aliis quoque parochis mensae Episcopali persolutum iugiter fuit, idque dubio procul deduci nedum a Codice Malatestiano anno 1379 in lucem edito, verum etiam a censuum libello anno 1714 a Card. De Via, tunc temporis Ariminen. Episcopo, peracto.

[*Latin ed. p. 252*]

252 ARIMINEN. He asserts that this kind of obligation, concerning the payment to the Episcopal table, is owed not only from the records of receipts and expenditures which were presented to the Bishop during the Visitation of the year 1830 by the parish priest, for approval; not only from the ten-year perspective of receipts and expenditures, begun on November 27, 1837; not only from the testimony of the tax collector, dated March 37, 1874, concerning direct taxes; but also from the act of possession of the Episcopal table, which was actually transferred to the current Bishop on January 11, 1883. From all of these documents, he concludes that the Episcopal table has the right to demand from the parish priest of Mondaini 15 sacks of wheat each year, in addition to the Cathedratic, which amounts to 19.15 livres annually. With these points established, he proceeds to refute the arguments presented against him. And, above all, concerning the much-vaunted poverty of the parish, he observes that the parish of Mondaini is

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one of the best and most prosperous in the entire Diocese; and this is evidenced both by the testimony of the Reverend Sub-economus, who, when questioned about the matter, stated that he did not believe the denunciations concerning the use of Delphini; and by two declarations of the Archpriest Bilancioni, who immediately preceded the current parish priest in the pastoral care of the parish church of Mondaini. Indeed, in one of the aforementioned declarations, the Archpriest recounts that, at the request of the Municipality, an annual pension of 40 scudi was imposed upon him and his successors, for the restoration of the church; and that he himself consistently paid this pension, along with the delivery of wheat and the 19.15 livres of the Cathedratic to the Episcopal table. He also recounts that he improved the fields belonging to the parish, even though he received nothing from the estate of the late Venerucci, since it was occupied by the Sisters, commonly known as the Maestre Pie. In the other declaration, he states that the revenues from tithes and congrues have increased significantly, both from the cultivation of lupine and from the fact that the estate of the late Venerucci now provides the parish priest with 100 livres or more. Furthermore, he observes that the parish now possesses the same goods and receives even greater revenues.

[*Latin ed. p. 253*]

ARMINEN. 253* Having enjoyed these advantages in previous times, and the parish priest was no longer required to pay the full sum of 40 scudi, which his predecessors were obliged to contribute for the restoration of the church. However, despite these circumstances, the Bishop stated that not only did the predecessor of the parish priest, but also the parish priest Perazzini himself, consistently fulfilled the entire obligation owed to the Episcopal fund without any complaint or delay. Regarding the remission granted by Bishop Battaglini and praised by the parish priest, the Bishop argued that it did not apply to this case, since Bishop Battaglini, upon being transferred to the See of Bononiensem, considered it prudent to remit a portion of the obligation in order to avoid the disputes that he might have had to face with a reluctant parish priest. Furthermore, it is irrelevant that the aforementioned Bishop Battaglini twice provided financial assistance to the parish priest Perazzini from his own funds for pious causes. He affirmed that he usually does the same for those parish priests who are in need of assistance due to unforeseen circumstances. However, the parish priest Perazzini refused to accept this assistance because he knew that he was not in such a condition as to warrant it. He then adds that such a payment cannot be considered a tithe, even if it is called by that name, but rather an obligation that all the parish's assets are subject to in favor of the Episcopal fund. He seeks to demonstrate this by citing the example of the parish of Mondaini, which from ancient times has consistently paid 15 sacks of grain to the fund. In this case, the Bishop argues as follows: If the

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payment of grain to the Mondaini parish fund were of the nature of a tithe, then the parish priest of Mondaini, who receives 40 sacks of grain annually as tithes, should have only had to return two sacks of grain to the fund, since it has been determined that tithes in the diocese of Ariminen are paid in the ratio of one to twenty. However, the parish priest of Mondaini paid fifteen sacks of grain to the fund: therefore, he concludes, such a payment is not of the nature of a tithe, but is to be considered an obligation that affects all the assets of the parish. In short.

[*Latin ed. p. 254*]

254 ARMINEN. Given that, as a matter of established practice, the obligation to provide what is due, upon which all parochial dues are assessed, is already clear, it is evident that the current parish priest, just as his predecessors, must fully repay fifteen sacks of grain, and even more so, because it is clear that he is in a better condition. Would it not be beneficial to consider the teachings on tithes as transmitted by the Canonists, since even a small concession to the opposing argument, which concerns true tithes, would still mean that the Bishop maintains that the controversy is not about defining the procedures of common law, but about the norm of custom prevailing in the town of Mondaino, according to which fifteen sacks of grain are paid. And such a custom, being more than centenaria, indeed, being of immemorial antiquity, provides a better basis for judgment in this matter. If the matter were otherwise, it would be necessary to change and overturn the status of all the parishes existing in the diocese of ariminensi, since all the parish priests in the diocese would be found to be in the same condition. The cause of such disputes and evils is obvious to all. Finally, it was argued that the judgment of the tribunal of Spoletani could not be applied to the matter, nor could it have force in the town of Mondaino, because there custom has the force of law; rather, the other judgment of the tribunal of Fori Li vii should be upheld, which, adhering to the common teaching of the Canonists, ruled that the tithes due to the parish priest of Risano, since they were ecclesiastical, should be paid in full, without any deduction for seed or expenses. After considering all these points, the following question was proposed: Whether and in what quantity the Archpriest of the place of Mondaino is obliged to pay the annual grain contribution, apart from that paid to the Cathedral Chapter of the diocese of ariminensi.

RESOLUTION. After mature discussion of the Sacred Canons, Decrees, and Regulations, it was decided on September 27, 1889, to respond: Affirm.

[*Latin ed. p. 255*]

ARIMINEN. 255 sacks, in the usual quantity, namely fifteen sacks and more. FROM WHICH WE GATHER: I. In defining controversies that may arise concerning the payment of tithes or other dues, it must be noted what was agreed upon from the beginning between the parties. II. Especially if

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what was agreed upon between the parties from the beginning has been confirmed by a long period of observance. III. A custom that is more than a hundred years old, or one that is of venerable antiquity, offers a better title to the world and outweighs the force of law. IV. Ecclesiastical tithes are to be paid in full, without any deduction for seed or expenses. V. In the case of a dispute, the judgment in favor of the Episcopal table is to be considered definitive, because the Sacred Congregation seems to have ruled not concerning tithes, but concerning the burden of providing for the parish that is imposed. FROM THE DECREE OF THE SACRED CONGREGATION FOR RITES, "Ubique et Orbis," by which the extension of the feasts of Saint John Damascene, Saint Sylvester the Abbot, and Saint John of Capistrano is granted to the universal Church; and by which the addition to be made to the sixth reading in the Office of the Sacred Heart of Jesus is approved. For, as had been requested by the faithful Catholics of the whole world, that the memory of the Saints, Confessors John Damascene, Sylvester the Abbot, and John of Capistrano, whose first shone forth for his outstanding doctrine, the second for his apostolic works, by which he benefited the salvation of souls, and who wonderfully illuminated the Church of God, should be celebrated everywhere; this request, with the fervent prayers of many holy prelates and distinguished men, was earnestly presented to the Roman See. Hence, readily complying with such requests, Our Most Holy Lord Pope Leo XIII referred the entire matter for mature examination and judgment to the Congregation of Sacred Rites; which, in its ordinary assembly, having been convened, heard the voice and...

[*Latin ed. p. 256*]

256 From the decree of the Sacred Congregation of Rites, written by the Most Reverend Father Augustine Caprara, Promoter of the Holy Faith, it was judged that the extension of the feasts to the universal Church could be granted as follows: namely, that the feast of Saint John Damascene, Confessor, should be celebrated on the twenty-seventh of March, under the rite of *duplex*, with the title of Doctor; the feast of Saint Sylvester, Abbot, on the twenty-sixth of November, under the same rite; and finally, the feast of Saint John of Capistrano, Confessor, on the twenty-eighth of March, under the rite of *semi-duplex*. However, with regard to the offices, it should be done as soon as possible by the aforementioned Sacred Congregation, so that from the year one thousand eight hundred and ninety-two onward, all the clergy, both secular and regular, who observe the canonical hours, shall recite them as follows: observing the rubrics. Furthermore, the same Most Reverend and Most Illustrious Fathers, entrusted with the preservation of the sacred rites, have decreed that the sixth reading of the Office, concerning the Most Sacred Heart of Jesus, whose feast was elevated to the rite of *duplex* of the first class by the Most Holy Lord our Pope in the preceding year for the entire Church, should henceforth be concluded as follows: "For

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the charity of Christ urges us to be patient and to be reconciled by his death, and in commemoration of his death, he instituted the sacrament of his body and blood, that the faithful, devoted and fervent in the symbol of the Most Sacred Heart, may remember it, and may more abundantly receive its fruits." Moreover, the thirteenth feast of the Most Sacred Heart was permitted to be celebrated in some churches; Pope Pius Ninth extended it to the entire Church; and finally, the Supreme Pontiff Leo Decimus Tertius, heeding the prayers of the Catholic world, elevated it to the rite of *duplex* of the first class.

Furthermore, His Holiness, having before him the report of my undersigned Cardinal Prefect to the Sacred Congregation of Rites, and ratifying and confirming the judgment of the aforementioned Sacred Congregation in all respects, extended the aforementioned three feasts by decree for the days indicated to the entire Church, and also deigned to approve the aforementioned addition to the reading in the Office of the Most Sacred Heart of Jesus. Contrary to any and all things to the contrary notwithstanding. August 19, 1890.

C. CARD. ALOISI - MASELLA, Prefect of the S. R. C.

L. f S. VINCENTIUS NUSSI, Secretary of the S. R. C.

[*Latin ed. p. 257*]

257 Circular letters from His Holiness Pope Leo XIII, by which it is established that, annually and in all places, a collection be taken up on the feast of Epiphany for missionaries destined for the regions of Africa. The Catholic Church, which embraces all men with maternal charity, has from the very beginning, as you know, Venerable Brother, sought to see the servitude that oppressed so many of the human race utterly abolished. For, being a diligent guardian of the doctrine of its Founder, who Himself and through the voice of the Apostles taught men of the fraternal necessity that binds all, since they are created from the same origin, redeemed at the same price, and called to the same eternal blessedness, it has taken up the neglected cause of the enslaved and has been a staunch defender of liberty, although, as the times demanded, it has acted prudently and temperately. Indeed, with prudence and counsel, it has consistently pursued what it intended in the name of religion, justice, and humanity, thereby meriting the prosperity and civil advancement of nations.

Nor has this zeal of the Church for the emancipation of slaves and the promotion of liberty diminished with the passage of time; rather, it has grown more fruitful with each passing day. This is most clearly attested by the monuments of history, which our Predecessors have commended to posterity, among whom are outstanding figures such as St. Gregory the Great, Hadrian I, Alexander III, Innocent III, Gregory IX, Pius II, Leo X, Paul III, Urban VIII, Benedict XIV, Pius VII, and Gregory XVI, who all exerted every effort to ensure that the institution of slavery, wherever it prevailed,

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would be abolished, and that where it had been eradicated, it would not be revived. This inheritance of great merit, transmitted by our Predecessors, could not be rejected by us; therefore, no opportunity has been overlooked by us to condemn this pestilence of slavery, and in our letters, dated May 3rd, 1888, which we addressed to the Bishops of Brazil, we congratulated them on the praiseworthy deeds accomplished in that region for the liberation of slaves, setting a laudable example both privately and publicly, and at the same time, we showed how much slavery is contrary to religion and human dignity.

Indeed, as we were writing these words, we were deeply moved by the condition of those who are subjected to the dominion of others; and even more deeply affected were we by the accounts of the sufferings, as recounted in the Acts, Volume XXIII, page 269.

[*Latin ed. p. 258*]

258 Letters reveal the distress of the inhabitants of certain regions within the interior of Africa. It is most pitiful and horrifying to recall that, as we have received certain reports, nearly four hundred thousand Africans, without distinction of age or sex, are each year forcibly taken from their villages, bound in chains, and driven by beatings over long distances to markets, where they are exhibited like cattle and sold. — These things, which have been testified to by those who have seen them, and are confirmed by recent explorers of equatorial Africa, incite us with the greatest desire to provide assistance to these poor people and to alleviate their suffering. Therefore, without delay, we have entrusted our beloved Son, Cardinal Charles Maritali Lavigerie, to whom we know there is zeal and apostolic spirit, with the task of approaching the principal states of Europe, so that he may expose the shame of this most vile trade and incite the minds of princes and citizens to pity this afflicted people. — Therefore, thanks are due to Christ our Lord, the most beloved Redeemer of all nations, who, out of his goodness, has not allowed our concerns to be frustrated, but has willed to be as a fruitful seed sown in the earth, which promises a joyful harvest. For both rulers of nations and Catholics from all parts of the world, all of whom hold sacred the rights of peoples and of nature, are striving to discover by what means and with what aid they can best cooperate to abolish that inhuman trade. The solemn assembly recently held in Brussels, at which representatives of the European powers met, and the more recent gathering of private individuals who, with great zeal, convened in Paris for the same purpose, clearly demonstrate that the cause of the Negroes will be defended with such force and constancy as is equal to the magnitude of their suffering. Wherefore, we do not wish to let pass this opportunity, but rather we wish to offer deserved praise and thanks to the princes of Europe, and we earnestly pray to the Highest God that He may grant favorable results to their endeavors in this great work. But,

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besides the care for the abolition of slavery, another matter presses more urgently upon our apostolic ministry, which compels us to see to it that the doctrine of the Gospel be spread in the regions of Africa, so that those inhabitants who have hitherto lived in darkness and have been blinded by superstition may be illuminated by the light of divine truth, and may share with us in the inheritance of the Kingdom of God. And we are the more eager to undertake this task, because those who receive this light will also shake off the yoke of human servitude. For where Christian morals and laws prevail, where religion...

[*Latin ed. p. 259*]

LITTERAE 259: Thus, men are instructed, so that they may serve justice and maintain human dignity in honor; where the spirit of fraternal charity, which Christ taught us, flourishes, there neither slavery, nor cruelty, nor barbarity can exist; but there blooms the sweetness of morals, and the civil adornment of Christian liberty. Many apostolic men, like soldiers of Christ, have gone before into these regions, and there they have devoted not only their sweat, but their very lives, for the salvation of their brothers. But the harvest is great, while the laborers are few: therefore, it is necessary that others, as many as possible, moved by the same spirit of God, without fearing distinctions, hardships, or labors, go to those regions, where that infamous commerce is practiced, bringing to its inhabitants the doctrine of Christ, joined to true liberty. Moreover, this undertaking, by revealing the divine nature, will also illuminate that most miserable part of the human race, and deliver it from the mire of superstition and the grievous condition in which it has long lain, neglected and abandoned. It pleases Us that the money, collected on the aforementioned day, in the churches and chapels subject to your jurisdiction, be sent to Rome, to the Sacred Congregation for propagating the Christian name. This Congregation will then distribute this money among the missions, especially those dedicated to abolishing slavery in the regions of Africa, where it exists or is being instituted: and the method of this distribution will be as follows, that the money originating from nations which, as We have mentioned, have Catholic missions claiming the freedom of slaves, be added to the support and assistance of these missions. The remaining sum will be distributed by the Sacred Congregation, to whom the needs of these same missions are known, with the most prudent judgment. We are not mistaken in believing that Our concern for these unfortunate Africans will be received with benevolence by the Lord, rich in mercy, and that you, Venerable Brother, will readily offer your zeal, effort, and care, so that these things may be accomplished with success. We are also confident that, through this timely and special aid, which the faithful offer to abolish the scourge of human commerce and to support the messengers of the Gospel in places where it flourishes, nothing will be diminished of the liberality with which the Catholic missions are

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assisted with the funds contributed to the Institute which, in Lyons, has received the name of Propagation of the Faith. This salutary work, which we have long commended to the efforts of the faithful, is now, with this opportunity offered, spurred on to a magnitude equal to its vastness. For it cannot be accomplished without considerable expense.

[*Latin ed. p. 260*]

260 Letters are needed for the support of missionaries, for the expenses of their journeys, for the preparation of dwellings, for the restoration and furnishing of churches, and for other necessities of this kind, since these expenses will have to be borne for several years, until the preachers of the Gospel, having settled in those places, can support themselves. May God grant us the strength to undertake this. But because of the obstacles that stand in the way of our desires, the difficulties of circumstances, we, Venerable Brother, and all other sacred prelates and Catholic men, are compelled by a paternal voice, and we commend this holy and salutary work to your charity. All of you should contribute to this noble undertaking, even if it is with a small sum, so that the burden may be shared among many, and so that it may be more easily borne, and so that the grace of Christ, for whose kingdom this effort is undertaken, may be poured forth, and so that peace, forgiveness of sins, and all other excellent gifts may be bestowed upon all. For this reason, we decree that, each year, on those days and in those places where the mysteries of the Epiphany of the Lord are celebrated, a collection shall be taken up as a contribution to the aforementioned works. We choose this solemn day above all others, because, as you well know, Venerable Brother, on this day the Son of God revealed Himself to the first-born, while showing Himself to be the Magi, who, for this reason, were rightly called by our predecessor, Pope Leo the Great. Therefore, we hope that Christ the Lord, moved by charity and by the prayers of His children who have received the light of truth, will adorn this undertaking with a new testimony of praise, and that it may spread widely and flourish with prosperity. In the meantime, to you, Venerable Brother, and to the clergy and faithful entrusted to your pastoral care, we impart our Apostolic Blessing with all our heart. Given at Rome, near St. Peter's, on the twentieth day of November, in the thirteenth year of our pontificate. LEO XIII, POPE.

[*Latin ed. p. 261*]

26. FROM THE VATICAN, LETTERS. The Cardinal Rampolla, Secretary of State, to the Most Reverend Bishop of s. Flori in Gallus. The letters were received from Your Eminence dated November 9th, in which mention was made of the dissension of opinions which has recently arisen in Gallus concerning a most serious matter; and this dissension ought to be the greater, the more necessary it is for all Catholics to have the complete union of wills. It is easy to discern what the opinion of the Apostolic See is, from

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the doctrine explained in the acts which have come forth from it. It is clear that the Catholic Church, whose divine mission embraces all times and places, has nothing in its constitution and doctrine which is contrary to any form of the republic, since individual actions can contribute to the best state of the nation, if they are undertaken with prudence. Indeed, the Church, rising above mutable forms of government and the contentions of parties, looks primarily to the increase of religion and the salvation of souls, which is the supreme good, to which all study, effort, and diligence must be devoted. Considering this, and with a sincere intention, the Apostolic See, following the tradition of all $\text{all ages, not only observes the civil authorities (whether the state is governed by one or by many), but also deals with them through envoys, nuncios, and legates, and offers counsel in order to reach agreements and to define questions which concern both the Church and the state. The performance of this duty surpasses the limits of human resources, and does not imply any prejudice to the rights which may perhaps pertain to some, as the most holy memory of Pope Gregory XVI, following in the footsteps of his predecessors, declared in the Apostolic Letters of August 7th, in the year 1831, which begin with the words: "Sollicitudo" (Concern). (1) Therefore, with the same concern for the good of religion, it is stated that the Holy See, in its dealings and in all its offices with those who govern the state in any other form, should it happen that something is treated or sanctioned, no right should be attributed, acquired, or approved by such acts, ordinances, and conventions, and nothing should be considered as an argument for discrimination, injury, or imputation against the rights of others...

[*Latin ed. p. 262*]

262 Letters to the rectors of cities: It is also necessary that the faithful be led in actions, not only in the private life, but also in public life. Therefore, when religious reasons do not prevent, and there is no just or particular impediment, it is fitting that the faithful should strive to participate in public affairs, so that their industry and authority may demand that institutions and laws be conformed to the norms of justice, and that the spirit and benefits of religion may influence the entire structure of the republic. Indeed, as far as Catholics in France are concerned, there is no doubt that it would be a most opportune and salutary work if, considering the condition in which their homeland currently finds itself, they would undertake the path that would lead them to that noble goal, which I have mentioned, more quickly and effectively. To accomplish this work, the wise and concerted action of bishops, the prudence of many faithful, and, above all, the very force of the advancing age can contribute greatly. Meanwhile, since the need to defend religion and the principles by which social order is maintained demands that all men of human society turn their attention to these matters, it is most fitting that the French faithful should agree on this and undertake this task,

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in which they may exercise vigorous efforts and noble zeal.

Those who would seek to reduce the strength of the Catholic Church and use it for partisan discussions, should turn their minds to the greatest good to which those forces should be converted; otherwise, they would vainly consume them, producing no fruit of salvation or glory; and they would finally inflict a grave detriment on the illustrious French nation, allowing the supreme principles of truth and justice to be undermined, and those excellent and Catholic traditions, which have always provided the common people with strength and the ornaments of great praise, to be diminished.

Furthermore, I am certain that the Catholics of France, for whom it is known that there is an outstanding devotion to religion and a singular love for their homeland, will rightly perceive the duties imposed upon them by the necessities of this time, and, heeding their pastors, will undertake this work with the utmost zeal and unity of men, which alone can lead to a safe and successful outcome.

Based on this confidence, I am pleased to offer you my particular esteem, and to invoke the blessings of the Most High.

M. Card. RAMPOLLA.

[*Latin ed. p. 263*]

263 FROM THE HOLY CONGREGATION OF THE COUNCIL OF VENTIMIGLIA, CONCERNING THE DIVISION AND ERECTION OF PARISHES, dated June 14, 1890, Session 25, Chapter 9, On Reform. The origin of the parochial and collegiate church of Saint Syri in Oppido, formerly called Saint Romulus, now Saint Remi, belongs to the early centuries of the Church. Its jurisdiction formerly extended widely; but, urged by the necessity of souls, it was gradually diminished. Thus, in the year 1494, the valley of Rhoddi, and in the year 1560, the village of Varesi, were separated and constituted as separate parishes. However, in this century, as the number of citizens, houses, and inhabitants gradually increased, and as the town of Saint Remi, having moved from the hills where it formerly was, extended along a long distance to the seashore, the Bishops clearly recognized that one parish of Saint Syri was no longer sufficient for the proper care of souls, and for a long time had desired its division. At that time, the state of the chapter of Saint Syri was as follows: The Proposit held the first place and performed the actual duties of ministry. Next came four canons, called "cernales," of very ancient foundation, to whom, although not entirely defined by the documents held by the Holy Congregation, some duty was assigned to assist the Proposit in the care of souls. In third place were sixteen, who were formerly called honorary canons or canonical chaplains, whom Pope Pius VII decreed should be added to the ancient chapter by his apostolic letters of May 27, 1803, and who were therefore of more recent foundation. Finally, there were many clerics of lower orders, that is, mansionaries, as

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in the *Compendium Facti*.

[*Latin ed. p. 264*]

264 VENTIMILIEN. Just as in other chapters, so too in the collegiate church of Saint Syrius, the following occurred. In the year 1852, Bishop Biale, having the opportunity of vacancies in three of the aforementioned canonries, petitioned the Most Holy [See] and obtained that two of these, to be conferred, should be suppressed, and that their revenues should be used for two suitable parish churches to be established in the city of Saint Remi, namely, one for Saint Joseph, and one for Saint Mary of Angelorum; and that the third canonry should be conferred permanently with the obligation that the beneficiary, for the time being residing in the church of Saint Stephen, within the parish boundaries, should preach, teach catechism to the children, administer the sacraments to the sick in the surrounding district, hear sacramental confessions in his church, and whenever he was free from these and other duties, should be present in the choir in his church of Saint Syrius. Therefore, from that time onward, the parochial jurisdiction in the city of Saint Remi remained divided as follows: to the north, on the highest slope of the hills, the parish of Saint Joseph; below, down to the sea, and thence to the west, the parish church of Saint Syrius; and to the east, the parish of Saint Mary of Angelorum; in the middle, between these two, the district of Saint Stephen, where one of the three canonries would provide a vicar and assistant to the rector of Saint Syrius. Some years later, the collegiate church of Saint Syrius also suffered the common fate of other institutions, due to a pseudo-law promulgated by the Italian Government, which they call the suppression of ecclesiastical goods. With the exception of two of the aforementioned canonries, which were treated as if they were curacies, because they provided assistance to the parish priest, one, as mentioned, in the church of Saint Stephen, and the other in the parish church of Saint Syrius itself, all the other canonries and endowments were condemned to confiscation. And for this reason, the clergy of the collegiate church gradually decreased in number, and the canons, who previously numbered around twenty, are now said to be thirteen. Meanwhile, many more [people] came to [the church] from that [region].

[*Latin ed. p. 265*]

VENTIMILIEN. Attracted either by clemency or by the prospect of profit, the city grew, and began to number twenty thousand inhabitants, and more. For this reason, and also because of the increase in the number of citizens, and in order to resolve certain disputes which are said to have frequently arisen between the canonical administrator of Saint Stephen and the chapter of Saint Syri, the present Bishop recently decided to erect the church of Saint Stephen into a proper and independent parish, and also to establish new parochial boundaries within the city of Saint Remi.

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This he did through a decree of October 23, 1888. To this new undertaking, an additional impetus was added by the generosity of Canon Sghirla, the present administrator of Saint Stephen, who, partly from his own resources, and partly from the generosity of a pious woman, established a special endowment, namely an income of 600 livres, for the erection of the new parish. However, as soon as the chapter of Saint Syri learned of the Bishop's decree, they considered it their duty to oppose it as much as they could. The new demarcation of the parishes did not please them at all; but the erection of the new parish of Saint Stephen caused them the greatest distress, and they informed the Bishop of this, and tried to dissuade him from his decision. But seeing that this was in vain, they appealed to the Holy See against such a decree.

Disputatio Synoptica

Patronus (who represents the interests of the chapter) begins his argument by stating that, in law, the division of parishes appears to be a form of alienation, and therefore cannot be carried out without a just cause and the formalities required by law. He argues that a just cause exists only when there is such a distance and inconvenience of travel "that the parishioners, especially in winter, cannot access the parochial church for divine services without danger or great inconvenience; nor can the pastor reach them, on occasion of illness, for the administration of the sacraments." Thus, *DEFENSIO CAPITULI*.

[*Latin ed. p. 266*]

266 VENTIMIGLIA. Ferraris, *Discourses*, n. 14, with Lotterie, Monacello, and others, *ibid*. Furthermore, even if there is a great distance between a certain village and the parish church, "dismemberment is not permitted, unless, notwithstanding the aforementioned, the parishioners have been consulted by a coadjutor who can administer the sacraments in a more convenient church." The same Ferraris, *ibid.*, n. 15, to which Barbosa refers in *Commentaries on the Council of Trent*, session 21, chapter 4, *De Luca, on Parish Priests*, 34, and to *Council of Trent*, decree 16, n. 7. Zamboni, *Collection of Decrees*, *on Parish Churches*, Sacred Rota, judgment 855, n. 10, and Sacred Rota, judgment 240, n. 5 and 6, to which the following peremptory words are best referred entirely: "To the extent that, even during the winter months, the parishioners could not reach the mother church without great difficulty, nevertheless, it could not be considered a reason for the erection of a new parish; but a remedy should be sought to reconcile the situation, namely, by appointing a priest to the mother church who could be moved, who would exercise the duties of a parish priest in that place, as the Sacred Congregation of the Council always responds. Whenever it is possible to provide for the situation with the ordinary remedy of appointing a movable chaplain, there should never be a place for the more extreme remedy of dismemberment." Fur-

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thermore, "solely due to the increased number of the population," a parish church cannot be dismembered, according to the authority of the Sacred Rota, and the Sacred Congregation of the Council teaches this in several resolutions, Ferraris, *ibid.*, n. 18. Therefore, Berardi, considering the old and the new discipline in this matter, in volume 1, page 27, and following, after acknowledging that formerly the Bishop could, at his own prudent discretion, dismember parishes and erect new ones, adds, regarding more recent times: "Hence, a custom has emerged, according to which, from one cause, the increase in the population does not allow the Ordinary to proceed with the division of parishes, which today is certain, after the aforementioned custom has been recognized as having been approved in the Council of Trent, in the aforementioned chapter 4, session 21, on reform. And so it has come about that the division of parishes is counted among the objectionable things by the practical men, to which, therefore, one can only resort outside the ordinary course."

[*Latin ed. p. 267*]

VENTIMILIEN. 267 [It] is possible; namely, only when there are expressly stated reasons in Chapter 3 concerning the building of churches. However, having lacked a just reason for division in this case, the petitioner easily concludes from this alone that the distance between the mother church of St. Cyrus and the auxiliary church of St. Stephen does not exceed 400 meters, and that convenient urban roads and squares connect both churches, as a graphic representation separately presented, and as demonstrated point by point by the master mason Bracco, clearly shows. To this, it must be added that a pastor has been appointed in the same church of St. Stephen for many years, who provides assistance to the auxiliary church and administers the sacraments to the surrounding people; furthermore, it is considered that the faithful residing in the district of the new parish have suffered greatly from the division, and have declared that they would prefer to attend the church of St. Cyrus. Therefore, the speaker concludes, not only was there no necessity for the division, but it was also an unnecessary division. Moreover, an appeal is made to the increase in the number of faithful in the parish of St. Cyrus. Since, in the first place, this does not provide a just reason for division in law; furthermore, the majority of the buildings by which that town has grown are located in the eastern region and within the district of the parish of St. Mary of Angels; while in the western part and within the boundaries of the parish of St. Cyrus, there are inns, cottages, and houses built to provide convenient lodging for travelers, foreigners, and, above all, non-Catholics; but by which the number of citizens and parishioners is truly not increased. This is indeed confirmed by a testimony signed by many citizens of St. Remy and transmitted to the Holy Congregation by the archpriest. But not only is the aforementioned division lacking

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in reasons, not only is it superfluous, but it is also harmful, the speaker claims, because the mother church is inferior to one or the other place in the parish, either in terms of territory or in terms of the number of subjects. This, the speaker describes, is something that should disgrace the first and most important church of the city and greatly harm it.

[*Latin ed. p. 268*]

268 VENTIMILIEN, sed praeterea, iuxta patronum, ex paroeciae erectione in discrimen ponitur ipsa canonicalis praebenda quam novus paroeciae rector retinet. Siquidem cum ea hucusque a confiscatione sarta tectaque manserit, eo quod tamquam beneficium curatum in subsidium paroeciae S. Syri renunciata et habita est; in posterum, si in vulgus prodierit, quod iam sub obscure mundatur, et si fiscus inaudierit ex elargitione canonici Sghirla manualem reditum 600 libellarum novae S. Stephani paroeciae praesto esse, eidem, ecclesiastica bona semper inhianti, praetextum dabitur suae aviditati satisfaciendi et canonicalem praebendam, qua haud amplius curatam nec paroeciae necessariam, occupandi. Nec satis; nam si canonicalis S. Syri praebenda novae paroeciae S. Stephani unita servetur, prout controversum decretum reapse fert, id absurdum sequetur quod canonicus, uni ecclesiae addictus, alteri qua parochus inserviet et interim praesens choro habendus erit; quod quidem abnorme iuxta patronum in ecclesiastica disciplina est. Si vero separetur, iam in maius discrimen incidendum erit, nempe in moralem certitudinem confiscationis canonicatus. Siquidem canonicatu ab animarum cura separato, nullus erit amplius obex, sed prona fisco potestas suae aviditati satisfaciendi et beneficiaria bona usurpandi. Dum e contra si nil innovetur, si ecclesia S. Stephani subsidiaria S. Syri relinquatur, si canonicus decimatis qua archipresbyteri coadiutor in speciali S. Stephani districtu consideretur, prout hucusque observatum est, omnia nunciata incommoda vitabuntur atque interim animarum curae aeque erit provisum. His contra decreti substantiam propositis, nonnulla deinde adiicit orator contra eius formam. Cum enim, ait, paroeciae dismembratio species alienationis sit, idcirco « requirit omnes solemnitates requisitas in alienatione rerum ecclesiae; alias ex defectu solemnitatum est nulla. » Ita Ferraris, c. 7, tit. 7, cum Rota et DD. ibidem. Prima autem ex solemnitatibus ad hoc requisitis est vocatio Rectoris et ei-

[*Latin ed. p. 269*]

VEN'TIMILIEN. 269, concerning the opinion of others, whose interests are involved. Ibid., and Berardi, Dissertatio, 3, chapter 3, part 1, page 279. Therefore, in our case, before the parish was divided, it was necessary to summon the archpriest, and also the chapter of St. Syri, since, having been granted habitual care over the entire parish, the division certainly concerned them. Indeed, it is said that the chapter of St. Syri lacks any

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parochial jurisdiction with the Bishop. Although this may be true regarding actual pastoral care, which is primarily exercised by the archpriest and subsidiarily by two canons, it is certainly not true regarding habitual care. For it is always presumed that habitual care belongs to the chapter, as stated in the Decree of the Sacred Congregation of Rites, 184, number 24, concerning the words "parish joined to the cathedral church or collegiate church," especially if "the revenues from funerals and the deceased, as well as offerings and alms and other similar things, are not received by one archpriest alone, but by the entire chapter; and if, when the archpriest is absent, the parochial and liturgical functions are not usually performed by a chaplain or someone outside the chapter, but by the dean or senior canon." All of this is verified in the records of the chapter of St. Syri, as a trustworthy document signed by several witnesses and recorded in the archives. Therefore, there is no doubt that habitual care belongs to the chapter of St. Syri, and consequently, it follows that the chapter should have been consulted regarding the division. However, since this was omitted in this instance, the patron concludes that the episcopal decree regarding the division has offended not only against the substance, but also against the form of justice.

DEFENSE OF THE BISHOP. On the other hand, it was noted that there are two cases to be carefully distinguished in the division of a parish: namely, the division of the benefice and the division of the territory. The former is indeed objectionable, because it harms the status of the old benefice and diminishes the honest livelihood of the former parish priest; the latter, however, is not so, as is clear from Torricelli, De union, question 882, number 2, from chapter 33, De praeben, and from the decree of the Sacred Congregation of Councils on August 23, 1755, in Pallottini, page 28, number 33, and Garcia.

[*Latin ed. p. 270*]

270 VENTIMILIEN. 12, 11, 13, Leurenius 4, 909, 1, and in the Acts of the Holy See, vol. 10, 269, as well as from the very treasury of the Sacred Congregation of the Oriental Church, in Squillacen, May 19, 1888; Fermo, June 16, 1888; and Concordien, June 15, 1889. (1) Indeed, the division, which does not affect the endowment of the benefice, but only the parochial jurisdiction, for the greater benefit of the faithful, and for the more suitable administration of the sacraments, seems to be to be pursued in every way, because, while it looks to the good of souls and provides for it, it does not truly harm the temporal interests of the former parish priest, but rather restores, nay, reduces, at least to the ordinary, if not in the smallest part, the revenues; and because the divided church does not lose anything, since its adornment can easily be consulted through matriculation. Therefore, while for the division which affects the benefice of the parish, the causes and formalities required by law must be observed, and those who have an

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interest must necessarily be heard, and other things must be carried out; on the contrary, it seems that it is possible to proceed more quickly for the mere division of territory; and while, for the first case, the Bishops are certainly obliged to conform to the prescriptions of chapter 4, session 21 of the Council of Trent, in the second case, they can invoke chapter 13, session 24 of the same Council, and other laws favorable to them. And the reason is that when a benefice is divided, as if it were a private property, it damages someone's ownership, which cannot be done without evident necessity; on the contrary, spiritual jurisdiction is not the property of anyone, and it should always be divided for the better governance of souls, whenever it is possible. But here the matter is about the division of territory, and not of the benefice. - What the advocate proposes against it, can apply to the highest degree in the case of a true and proper division of a parish, that is, when both the territory and the benefice are divided. I said to the highest degree; for it truly seems that from Ferraris and other Doctors, it is announced there. Squillacen is found in Vol. XXI, 182; Fermo in Vol. XXI, 400; Concordien in Vol. XXII, 69 and 660. Also, note the note at the bottom of the page in Vol. XXI, 186.

[*Latin ed. p. 271*]

VENTIMILIEN. 271. Indeed, according to the opinions presented on the opposing side, the division [of a parish] could not be carried out either due to the increased population, because then the consul [official] could compel the rectors to add as many priests as are necessary; nor due to the distance of the places and the difficulty of the roads; for then it is said that a remedy should be sought by conciliatory measures, namely, by assigning a priest to the mother church who can be moved, who would then perform the duties of a parish priest in that place. Furthermore, these opinions seem, above all, to contradict chapter 4 of session 21 of the Council of Trent, where the bishops are expressly granted the faculty "to establish new parishes, even against the will of the rectors, in those churches in which, due to the distance of the places or the difficulty of the roads, the parishioners cannot easily access the sacraments and the divine services; and to assign to them, at the discretion of the bishop, a portion of the fruits belonging to the mother church in any way." But moreover, if the opinions presented on the opposing side were valid, then the matter of the division of parishes would have already been definitively settled; for neither the population nor the distance of the places, that is, from no cause whatsoever, could the status of the parishes be changed; which, indeed, seems too extreme. Therefore, to those who present the opinions on the opposing side, it can be responded, as De Luca, the most eminent of the canonists, says, "It is a manifest error of those who, with some resolutions of the Holy Congregation... or with the traditions of some Doctors, proceed solely on the letter in matters of this kind, whether for the erection or denial of such a new parish, when

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it is rather a question of a factual matter, to be decided according to the particular quality of each case and the individual circumstances." And it is no secret that the Holy Congregation has, on more than one occasion, permitted the division of parishes, solely for the greater benefit of the people, as is shown by numerous examples given in *La Feuillee*, in the cause of Sagten, August 22, 1885, § Quae. (1) But these things are said almost by way of abundance, and to show that even in the case most favorable to the opposing side, that is, in a strict and proper division, all things are suitable.

[*Latin ed. p. 272*]

272. VENTIMILIEN. To receive the petition which, with regard to the absolutely necessary preservation of the state of the parish buildings, is presented there. Furthermore, we are concerned with the matter pertaining to other additions; for the question is solely about the division of territorial jurisdiction. Indeed, it is not properly a question of a division of territory now being instituted for the first time, but rather of a division, which has already been somewhat established several years ago, and which must now be further advanced and completed. For, since the Bishop Biale, from the year 1852, established the district of St. Stephen among the two parishes of St. Syrius and the Holy Angels, and assigned a particular tithe of the canonical tithes to it. Moreover, this, on the one hand, seems to demonstrate that the necessity of a new parish of St. Stephen was already felt at that time, while, on the other hand, it defends the decree of the present Bishop. It could even be said that Bishop Biale entrusted the care of one of the canonical tithes of souls to the church of St. Stephen, in order to protect its endowment from a suppression that he foresaw. Since, in the first place, this is based on no certain or positive argument. Moreover, it is not entirely appropriate to the matter. Indeed, it was not necessary to assign a special and particular district to it in order to preserve it from suppression, and to order that a priest reside there and administer the sacraments in the church of St. Stephen: rather, just as one of the canonical tithes, although not assigned to a special district, nevertheless served as a means of support for the pastor, and for this very reason was preserved from suppression; so too, it could have happened that the other tithe would have been similarly preserved. Therefore, the definition of the territory and the order of residence do not seem to have been instituted in order to preserve one of the canonical tithes, but rather because it already appeared useful and necessary for the care of souls that a priest, as a parish priest, should reside in the church of St. Stephen. However, this necessity has increased in the present time, because the number of permanent inhabitants has increased from that time by five and...

[*Latin ed. p. 273*]

VENTIMILIE. It is increased to more than 273,000 inhabitants in the

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Kingdom, and the entire city exceeds 20,000 souls. Therefore, it is not surprising that the Bishop considered it necessary to provide a proper church there, which had already been begun in a fitting and peaceful manner. Moreover, because many inconveniences arose from the halved jurisdiction of the parish church of Saint Stephen, as the Bishop observes, and also because, considering the good of souls in the larger population, a beautiful and suitable church for the administration of the sacraments was needed, which was greatly lacking, and finally, because, for a slight reason, the canonical endowment of Signor Sghirla could not be offered to the parish of Saint Stephen to establish it independently. It is also desirable that in the district of Saint Stephen, whether a true pastor or merely an assistant resides in those buildings and dwells in that district, so that it may appear equally well-provided for. As it is rightly stated in the dispute with Ursaya, in *Eccles. 14 tom. 1 p. 1 ad n. 93*: "It is certain that, through the consultation of a chaplain, nothing remains as it would have been had the consultation been through the delegation of a pastor, either because of the person, who is always considered more worthy in the pastor, or because of the dignity and revenues of the office itself; in which the pastor, as the bride of his church and the shepherd of his flock, cares for the salvation of the parishioners with greater zeal and charity, which a simple mercenary, as is to be called in the present case, a chaplain or vicar, does not do." Nor can the argument be reinstated by appealing to the proximity of the churches and the ease of the roads. For the Bishop rightly observes that in the dwellings of the City, the force of the matter does not depend on the distance between two churches. In cities where the faithful are occupied with more urgent affairs and also enjoy greater conveniences, it is expedient, and always is for a prudent administrator, to make communication between the faithful and the pastor as easy and as quick as possible. Furthermore, the temple of Saint Syrius is almost half a kilometer away from the church of Saint Stephen, and this distance, as those who...

[*Latin ed. p. 274*]

274 VENTIMILIKN. Those who reside near the church of Saint Stephen, it is necessary to note that the parish is certainly growing, especially since we are speaking of a city. It is not permissible to further reproach the union of the canonry of Saint Syrius with the parish of Saint Stephen as an anticanonical union. Indeed, a distinction must be made in two cases: if the care of souls does not pertain, either in fact or in habit, to the chapter, then it is certainly not permissible for a canon to exercise it outside of his own church, and it must be observed that the Sacred Congregation of Councils decreed in Venusina on July 30, 1762, in the aforementioned case, in response to the question: "Whether it is permissible for a canon to exercise a parochial ministry outside of the cathedral church, which does not pertain, either actually or habitually, to the chapter," the answer was: "No." However, if

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the care of souls pertains to the chapter in habit, there is no contradiction in the canon exercising the ministry of care in a separate church, and in the meantime receiving the fruits and distributions pertaining to him. Indeed, this is expressly stated in Session 22, chapter 3 of the Council of Trent, and Benedict XIV illustrates this in his own learned manner in *Instituta Ecclesiastica*, 407, n. 56. Finally, the division, as decreed, cannot truly cause a serious loss to the mother church of Saint Syrius, since it is expressly stipulated in the same decree that in all sacred functions, all rivalry between the parishes must cease, and that the filial church, except for four days, shall be subordinate to the mother church in all other matters. Therefore, the influx of the faithful to the church of Saint Syrius and the frequency of the people will not be hindered by the erection, or rather, the perfection, of the new parish, nor will the temporal revenues of that church suffer for this reason. But even if some loss were to arise for the chapter and the church of Saint Syrius, it would certainly be slight, and more temporal than spiritual, and therefore would not seem to provide a just cause to invalidate the Bishop's decree and to revoke the arrangement, which is conducive to the good of souls and is entirely necessary, as the Bishop has determined. Furthermore, as Benedict XIV teaches in his Constitution, "It is not fitting to disregard the testimony of that Shepherd to whom the divine mandate of leading his flock has been entrusted."

[*Latin ed. p. 275*]

VENTIMILIEN. 275 "that he may know his own sheep." Furthermore, since the actions must be sustained. Moreover, with a single blow, all the presented arguments are refuted, and the utility of the completed division, and the compulsion of those who are affected, which seems to be called into question, is proven by the words of the parish priest of Saint Mary of Angelorum, contained in letters addressed to the Sacred Congregation of the Council. Therefore, with these considerations, the purpose was to dispel the doubt as to whether the Episcopal Decree of October 22, 1888, is applicable in this case. RESOLUTION. The Sacred Congregation of the Council, after deliberation on June 14, 1890, decided to respond: Negatively. From which the following are gathered: I. The division of a parish appears to be a form of alienation; therefore, in order to properly complete it, all the formalities required in the alienation of ecclesiastical property must be observed, lest it be rendered invalid and of no value due to the lack of formalities. II. The habitual care of souls in a parish can be understood to belong to the Chapter of the Church, or can be recognized from it, when the revenues from funerals, offerings, and alms are not received by a single Archpriest, but by the entire Chapter; or when, in the absence of the Archpriest, the parochial functions are performed by the Dean or senior member of the Chapter, and not by an outsider. III. In the division of a parish, a distinction must be made by the Doctors between the division of

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the benefice and the division of the territory; the former being considered objectionable, since it damages the status of the benefice and diminishes the honest means of subsistence for the former beneficiary, while the latter is not considered objectionable. IV. Indeed, a division, which does not affect the endowment of the benefice, but only the jurisdiction of the parish priest, seems to be pursued with benevolent favor, for the greater benefit of the people, and for the more suitable administration of the sacraments, provided that the ancient...

[*Latin ed. p. 276*]

276. The temporary assignment of a parish priest does not harm the parish, but rather lessens its burdens and obligations. V. The Bishops, according to Session 21, chapter 4 of the Council of Trent, have the power to establish new parishes, even without the consent of the existing parish priest, in those churches where, due to the distance or difficulty of the location, the faithful cannot easily access the sacraments and divine services. VI. However, if the doctrine of stricter Doctors were to be followed, the division of churches could never be justified, because neither the frequency of the people nor the distance of places would constitute a just reason for division; since both the frequency of the people and the distances can be addressed by assistant priests or vicars. VII. Nevertheless, the most recent jurisprudence of the Sacred Congregation [for Bishops] is more in harmony with the Council of Trent, and therefore favors the division of churches for just reasons; because the good of souls is better served by their own pastors than by assistants or vicars. For the parish priest is the spouse of his church and the shepherd of his flock, who will care for them with greater zeal and charity than a chaplain or vicar, mere mercenaries. VIII. Regarding this matter, while both canon law and jurisprudence favor the division of churches for the good of souls, which is the supreme law in such matters, it must be said that every division is a matter of fact. IX. In the matter of fact, the division of a parish, carried out by the Bishop, did not appear to the Fathers [of the Council] to have such force as to justify its admission, either rightly or prudently. X. When the habitual care [of a church] belongs to the Chapter [of a cathedral], a canon can exercise the actual care in the church, even if it is distinct from the cathedral, and receive the fruits and distributions belonging to it, as if he were exercising a parochial ministry in the cathedral itself.

[*Latin ed. p. 277*]

277. From the marriage records of Palermo, dated July 12, 1890, Session 24, Chapter 1, concerning reforms. Carolina Locasto, a native of Palermo, daughter of Francis, having completed her sixteenth year, was residing as a guest in the countryside of Monte Pellegrino, at the home of her sister, Mary, wife of Joseph di Maio. The home of this family was frequently vis-

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ited by a friend, John Ceraulo. Inflamed with love for his intended bride, John proposed to Carolina, who, due to the disparity in their ages and the unattractive appearance of the suitor, refused him. After three days, John departed from the home of Joseph, but through letters sent to Carolina, he endeavored with various arts to win her affection. The young woman, having been scorned, fell in love with the man she had rejected! One day, she received a letter from her maid, in which John requested that she briefly converse with him in the courtyard, where he awaited her. Carolina immediately left the house, and scarcely had she descended the stairs when she was seized by John, and taken to a certain house, where she remained with her abductor for a period of one month. When Francis, the father of the young woman, heard of this, he was enraged and refused to speak her name, but after being appeased by the intervention of his parents, he took steps to provide for the honor of his daughter, and invited John to celebrate the marriage before the Church. But the abductor refused. Truly terrified by the threat, he agreed and, not in the parish church of St. Anthony, but in St. Leonard's, perhaps by delegation, he contracted a marriage with Carolina. The following day, when questioned by her sister as to whether the marriage had been consummated, Carolina replied negatively, unaware of the act by which marriage is consummated. And after her sister explained the matrimonial act to her, she sincerely declared that the bridegroom had used all his strength throughout the entire month of cohabitation, and on the night following the celebration of the marriage, to deflower her, but in vain; and that there had never been a perfect union. The matter, having been made known by the parents, and with the understanding that...

COMPENDIUM FACTI.

[*Latin ed. p. 278*]

378. The matter concerning John having reached Panormitana, a few days later, he himself returned his bride to Francis, the parent of this man. After Francis had subjected the child to an examination by midwives, he presented a document to the municipal authorities, by which the civil marriage to John was prohibited; to which document John, aware of his defect, never responded, and he persevered in his defiance. Four years later, Carola approached the Panormitana court through a procurator, requesting that the nullity of the marriage contracted with John be declared, due to the impediment of impotence. After the proceedings of the Constitution of Benedict XIV were completed, the Ordinary issued a sentence, by which such a marriage was declared null and void. The defender of the bond appealed to the archiepiscopal court of Cefalutensis, which did not initiate a new process, but, keeping the matter of Panormitana in view, annulled the sentence of the Ordinary of Panormitana, and declared the marriage about which we are speaking to be valid. Carola appealed to the Holy See,

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and at the same time, she presented a suppliant petition, requesting that the cause be heard economically.

A Synopsis of the Discussion:

When it is a matter of a matrimonial cause, he says, it is necessary that, for the sake of the certainty of the sacramental bond, it be defined by the most certain proofs, according to the authentic criterion of Bishops and, indeed, of Cardinals. The procedure in such causes is special, and is not to be applied to other causes. It is established in law, concerning frigidity and malice, as follows: "The wife, if after a year or six months she proclaims to the bishop, or his emissary, that she did not know him, and you (namely, the husband) affirm the contrary, you are to be believed, because you are the head of the woman: for if she wished to proclaim, why did she remain silent for so long? She could certainly have learned quickly and in a short time whether she could cohabit with him. But if, immediately after the novelty, after a month or two, she proclaims to the bishop or his emissary: 'I wish to be a mother, I wish to have children, and therefore I have accepted a husband,' but the man..."

[*Latin ed. p. 279*]

"In PANORMITANA, I have taken the case; it is of a nature that is difficult, and it cannot be resolved in the way that I received it, unless it can be proven that you can separate them by a just judgment, and she, if she wishes, can marry in the Lord." At first glance, it seems that Carolina did not follow the proper procedure, because after four years, the woman went to the court in PANORMITANA. However, we believe that Carolina did observe the essential requirement of the law. For the girl, within two months of learning what she wanted, and through the action of her father, since she was still under her father's authority, if she had not gone to the court, but had declared to the civil authorities; and if she herself petitioned for an ecclesiastical judgment after four years, she validly and legally initiated the action. The declaration is an indication of a pre-existing impediment, and therefore, in law, it must be made diligently, but there is no prescribed time limit, so that any subsequent action does not incur nullity. There is no prescription in such cases, so that the souls of the spouses are not harmed. Coscius, lib. 1 de separ, thor., says: "If the wife is a virgin, and it is proven that she remained a virgin after many years, she can claim and deserves to be heard." However, in the process, it is written that Franciscus Locasto, Carolina's father, under oath, affirmed that he did not go to the court in PANORMITANA because of many difficulties and because of poverty; he feared that the judgment would not be free of charge. The same was deposed under oath by his son, Gulielmus. But why was the three-year cohabitation omitted as a test? Such a test is required when the impediment of impotence is doubtful, but it is not required when it is considered certain. Formerly, impotent spouses were allowed to live together,

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as brother and sister; but according to the current discipline of the Church, this is no longer permitted, especially if the spouses are young, even if they have not consummated the marriage, for the declaration of nullity of the marriage. Sixtus V, in letters sent to the Bishop of novariensem, instructed the Apostolic Legate in Hispania not to allow such contracting parties to live together. Celestine III (iri Beer. 55), says: "Requisisti, how much time should be granted..."

[*Latin ed. p. 280*]

280. "It seems natural for those who are naturally frigid to experience the conjugal union. However, in the present consultation, we feel that... if the frigidity cannot be proven beforehand, they should cohabitate for three years." When the impediment of impotence poses a serious danger to the chastity of the spouses, that danger must be averted. And Saint Alphonsus, Doctor of the Church, states that betrothed persons have the faculty of being separated in foro conscientiae when it is certain that the marriage cannot be consummated. The long silence of John Ceraulo does not impede the reasoning process, as was demonstrated in the case of Charles Locasto. The rule of law *qui tacet consentire videtur* (he who is silent is considered to consent) may apply to him. He offers no opposition before civil and ecclesiastical authority. When summoned to answer regarding matters attributed to him, which constitute an argument of dishonor, he is considered contumacious. It does not seem to me entirely correct to interpret such silence as an indication of heroic patience in the case of a girl who has been abducted. However, the contumacy of one should not prejudice the rights of the other. No question arises as to whether grounds for contumacy would be sufficient to prevent a judgment. When summoned by the judge, and regardless of any suspicion the court might have that he himself resided in a certain place, John did not respond. Will his contumacy invalidate Charles's appeal? His sister rejected the summons and pretended to be ignorant of her brother's whereabouts. What more could have been done to compel John to appear before the Ordinary? In this case, the legal principle can be invoked: "If the contumacious party appears, whether because he disobeys a peremptory summons, or because he maliciously hides himself, or because he prevents the summons from reaching him, the witnesses are justly admitted, and nevertheless, if it appears that a final judgment can be reached, the case proceeds." Innocent III, *de lit. non contest.*, cap. V. The argument gains strength when a declaration made by John in writing, outside of court, is presented, in which he confesses his guilt. Although such extrajudicial evidence may be considered, it can be accepted in the same way as documents or writings previously prepared by the parties in court. John Ceraulo, in order to restore the reputation that he himself has

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damaged, from the family Lo-

[*Latin ed. p. 281*]

In Potenza, on the 28th of [month unspecified], having been seduced by Thomas, Carola wrote a confession of her guilt. It cannot be asserted that such a declaration was extorted by force or fear. For John Ceraulo, the declarant's nephew, was present, and he never manifested any fear in the matter of his uncle's disgrace. Indeed, John, before the civil authority, did not retract his declaration, so as to suggest that it was made under duress. He did not manifest that he had suffered any fear from the parents of Carola. He could indeed have instituted a lawsuit against the parents of the complainant. The parents of Carola were not accused of any coercion in court. What remains is that John, conscious of his guilt, delivered that declaration to the parents in order to avoid a penal judgment before the civil tribunal. Since there is a written confession of the act, even though the person is contumacious, it can still be considered as evidence in the judgment. And if witnesses are lacking on his side, this fact confirms his declaration, because he renounces proofs in his favor, when he is unable to produce them. Regarding this matter, the marriage celebrated by John with Carola Locasto was not impeded by impotence. For the end of marriage is to multiply men upon the earth. For God created man male and female, and He blessed them, saying: "Grow and multiply upon the earth." The sacrament of marriage was elevated by Christ the Lord to a supernatural order, so that the faithful may multiply the sons of His Church. When the objective end of such a union is lacking due to a natural and essential defect, neither the sacrament nor the marriage exists. By natural law and by ecclesiastical law, impotence, whether it be perfect, or whether it be natural or accidental, perpetual, absolute, or relative, if it is known before the celebration of the marriage, or if it is unknown, annuls the marriage. If the marriage is considered as a natural contract, it lacks the matter of convention, due to the permanent and antecedent impotence, and therefore it is null. As the blessed Thomas teaches in the Supplement, question 58, article 1, the power of procreation is of the essence of the matrimonial contract. In the law, it is written: "defici-".

[*Latin ed. p. 282*]

282 In Panormitana, I refer to the teaching of Pope Celestine III in chapter 4, concerning impotence and its effects, which is as follows. But truly, if two parties have never known each other, as in other contracts, it is not a valid obligation if someone obligates themselves to give or do something that they cannot. Thus, a marriage contract is not valid if it is made by someone who cannot fulfill the marital act. John Ceraulo is accused of impotence; therefore, if there are certain proofs, his marriage to Carola Locasto should be declared null. However, first, it must be proven whether there was a

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pre-existing impotence. According to the common opinion of theologians, it is considered pre-existing if it is alleged within a short time, one or two months after the marriage. Carola, after having lived with John for one month, and after half a month or two months, clearly demonstrated the impotence of her husband on the very day the marriage was contracted. Some theologians are of the opinion that, in cases of doubt as to whether there was a pre-existing impotence, judgment should be given in favor of the marriage, because, as they say, the ability of the contracting party is presumed. However, the opinion of Saint Alphonsus, in Book VI, Treatise VI, paragraph 1104, along with Tournely, volume 2, page 209, Bonacina, question 3, paragraph 13, number 11, and the Salmaticenses, *loc. cit.*, is more probable, which teaches that judgment should rather be given in favor of the one claiming the nullity; for since the marriage cannot have its effect, namely the procreation of offspring, it is more fitting to declare it invalid rather than valid, lest it be turned against the good that has been intended for the party. Everyone is presumed to be capable, but not when there is a positive presumption to the contrary, as in this case. Especially if, after the marriage, no cause has arisen that would lead one to presume that the impotence occurred after the marriage. In the present case, no cause was presented in the proceedings that would explain the impotence of John after the marriage. It would have been proper, and necessary for the reputation of John, either by himself or by others, to at least present a cause that arose at the time of the marriage; but he remained silent. Indeed, in his declaration, he stated that he had not consummated the marriage, and that Carola was still pure and intact when she was returned to her father. Therefore, if it is proven that he is impotent, it must absolutely be recognized that—

[*Latin ed. p. 283*]

PANORMITANO 283, his power having preceded. The aforementioned Celestine III established the form of proof, stating: "But if both parties declare that they have never known each other, and if, with the seventh witness present, either of relatives or neighbors of good reputation, or if relatives are absent, with witnesses chosen according to the sacred laws of the Gospel, each swears that they have never been united in the flesh, then it seems that they may validly enter into a second marriage." This is what Carola Locasto confessed under oath before an ecclesiastical judge, and she confirmed it. Carolina's confession appears to bear the marks of innocence and sincerity. The truth of her statement is further illuminated by the oath she swore. Before the court, outside of the judgment, John Ceraulo also made his confession, which does not appear to have been extorted: he declared that no force was used against him in signing the declaration, nor did his nephew, who was one of the witnesses. Indeed, the entire document was completed by his own hand. In this document,

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John confessed his impotence. He indicated that he had found nothing defective in the girl, but that the misfortune, namely the consummation of the marriage, had occurred only to himself, attributing it to circumstances related to his health. All the witnesses unanimously testified to the truth of Carolina Locasto's confession, not only because they knew the girl to be truthful, but also because the events she described were directly known to them. Joseph di Maio, testifying to Carolina's innocence before and after the marriage, stated that what Carolina had recounted was certain to him, because it occurred in his house. William Locasto, Carolina's brother, testified that what Carolina asserted was true and known to him, but he confessed that force was used against John to ensure that the marriage was celebrated ecclesiastically, and he did not mention any force used against John to make him sign the document in which John declared himself to be impotent. The witness Anthony Nota, a royal notary, confirmed with his sworn deposition that what Carolina had recounted was true. Salvator Zumma testified that he was sent by John Ceraulo to obtain consent from Francis Locasto, pa-

[*Latin ed. p. 284*]

284 P. Having heard the pleas of both parties, he reluctantly agreed, declaring with great sorrow that he would grant the dispensation because John, by taking Carol, had abused the bond of friendship. One further proof remains, namely, the examination of the bodies. Such an examination is not absolutely necessary. For the Holy Congregation C. in Burdigala, on February 26, 1882, dissolved the marriage bond without an examination of the bodies, and rightly so; for Ursaya, Tom. III, Disput. 21, § 2, states: "Indeed, if the impotence of the man prevents the wife from being compelled to live in celibacy; which is not permitted, a certain and conclusive proof is not required, but it is sufficient that the aforementioned impotence be so probable that the Holy Father may consider it to be true and be moved to grant the dispensation." The same opinion is held by Cardinal de Luca, Discep. 7, n. 7, de Matrim.; Conscius de Separ., Thor., Lib. 2, cap. 2, n. 386; and the Holy Congregation C. Neapolitana, in matters of marriage dispensations, March 3, 1871. It is sufficient that witnesses testify that they believe, or have learned, of the impotence of either the man or the woman, and that this testimony is signed under oath, as stated by Panorm. with the Glossary in d. C. Laudabilium. The Salmaticenses, n. 137, approve and elaborate on this opinion. Nor is it necessary that both parties, namely the man and the woman, be examined, otherwise justice would be denied to widows. Therefore, it is irrelevant in the case at hand whether the examination was made of the girl's body and not the man's; because the man was contumacious, persevering in his refusal, and could not be found anywhere; and the girl's integrity demonstrates the consummation of the marriage. Indeed, not only did midwives and doctors testify extrajudicially that Carol was a

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virgin, but midwives and doctors, under oath in court, confirmed Carol's integrity. They also used the bath, according to the instruction of the S. C., in which anything that has been fraudulently or artfully done vanishes, and even weak scars are revealed. And indeed, Le Bec and Ferrant testified in a case that a probable lack of consummation could not be established without the use of the bath. But other doctors, in the experiment with the bath, have certainly deduced the virginity, or the lack thereof. Similarly, in our times, some writers on the art of medicine consider the examination...

[*Latin ed. p. 285*]

PANORMITANA 285: Some assert that the hymen of a woman's body can sometimes remain intact, and be constricted for a long time. But lest all knowledge be reduced to skepticism, common sense holds that exceptions are confirmations of the general rule, and that possibility does not preclude actuality. Adhering to the laws of physics, we admit that the examination of bodies is a criterion, and the use of the bath is an aid to proof. The author, Barbosa, states that proof must conclude necessarily, and by what is, not by what is possible, vol. decis. v. 17, n. 93. The examination of the body of Carolina, aided by the use of the bath, demonstrated her perfect virginity, and therefore, the impotence of John. Therefore, if the sworn confession of the bride, and the written confession of the groom, demonstrate the impotence of the man; if the testimonies of all witnesses confirm the confession of the bride; if the obstinacy of the groom does not affect the case; if all witnesses uniformly confirm the confession of the girl; if the examination of her body testifies to her virginity, it follows that no marriage was validly contracted. Furthermore, the consultant added certain observations regarding the arguments of the sentence of the Ordinary of Cefalù, and concluded: The written documents are presented to the judges before the judgment, and therefore, they are extrajudicial; nevertheless, in the course of the litigation, these documents provide arguments for the pronouncement of the sentence, supplementing the obstinate contumacy. If, as the Archbishop says, John, despite having abducted Carolina, never pursued her with love, why did he keep her with him for a month, and not return her to her parents? Moreover, what good could the girl possibly have hoped for from that marriage, other than the restoration of honor? An inheritance? But the girl required an ecclesiastical, not a civil, marriage contract; and the civil effects of an ecclesiastical marriage are not produced by the present law. The declaration of John favored him more than Carolina; and it was like a peaceful divorce. If Carolina's parents could have instilled such great fear in John's mind, they would have forced him to contract a civil marriage. If John feared Ceraulo, he...

[*Latin ed. p. 286*]

286 In Panormitana, Carola, concerned about her impending departure

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from the city of Panormitana, is urged by her parents to proceed with the marriage, as she had already been summoned to the ecclesiastical court. However, the Cefaludensis court, in the aforementioned declaration, states that nothing is demonstrated regarding impotence. But those words which express the reason why the girl was not violated, "Considering the condition of my health in which I find myself, I have not done any evil to that girl, nor could I do so," what do they signify if not impotence? Finally, the Cefaludensis court attributed the girl's virginity to other causes, but what kind of causes could these be? It is not possible for the judgment of a judge to rely on possibility, but on the reality of the facts. And since, in order to demonstrate the nullity of the marriage, it is established that Carola Locasto is still a virgin, or that the man is either dead, or that even his homeland would not have news of him, it remains that at least the Holy Father should deign to grant the girl grace by dispensing her from other vows, in order that she may enter into a valid and consummated marriage, lest she incur the danger of fornication. She is twenty-two years old, she has known the allure of pleasures, and continence is difficult for her.

OPINION OF A CANONIST.

First of all, it must be known that John Baptist Ceraulo, a man of no religion, having been rejected by the parents, and by Carolina herself, regarding a marriage with her, endeavored to entice her, so much so that he persuaded her to unexpectedly leave her paternal home and flee with him, not only that, but he lived with her for an entire month, and cohabited with her. This most deplorable way of life would undoubtedly have lasted longer, had not certain relatives, with persistent efforts, attempted to remedy this evil, by appeasing the anger of her parents, and by suggesting a legitimate marriage to them, in order to somewhat repair the disgrace to the family and to the unfortunate Carolina. But what a task, what labor! For John Ceraulo, a veritable atheist, admitted only a civil contract, and absolutely rejected the ecclesiastical marriage, so that he only consented to it under threats and violence.

[*Latin ed. p. 287*]

PALERMO, 287. After these events, it appears that Ceraulo, having left Palermo, went to another region, and always behaved contumaciously, so that, although he was sought diligently on several occasions, he could never be found. The unfortunate Carolina, having presented a petition to the Tribunal of Palermo, requested that the marriage be declared null, on the grounds of impotence. The Tribunal declared the marriage null. However, the defender of the marriage bond appealed against this judgment to the senior Bishops of that Province, namely the Bishop of Cefalù, according to the Bull of Pius IX which begins: "Multis

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gravissimis..." who pronounced a judgment on May 11, 1888, declaring the aforementioned marriage to be valid. It is therefore clear that we are presently dealing with a case in which there are two opposing judgments, one arguing for the validity of the marriage, and the other for its nullity. Regarding the first judgment, it should be noted that its actions are not entirely in conformity with the sacred canons; and especially with the instruction of this Sacred Congregation of August 22, 1840, and also of the Holy Office. For the sake of brevity, and omitting the rest, the following may be noted. In the first instruction, the following is read: "On the appointed day, the party alleging nullity will appear, and then the defender of the marriage will present sealed interrogatories, signed by the clerk or notary, which must be opened at the request of the party alleging nullity, according to the decree of the judge in the course of the examination, and on which the spouse alleging nullity will be questioned." Meanwhile, while the party is being examined, the clerk will write down the first interrogation in the proceedings, and then, in order, will write down each question, followed by the answers to be given by the judge: "After the documents presented by the parties have been examined, the judge will choose five experts, namely three doctors, and two surgeons, from among those in whom the parties agree. The defender of the marriage will present sealed interrogatories, which must be examined by the experts." "The judge will appoint at least three midwives, who, together with two experts, one doctor and one surgeon, chosen from among the most distinguished in the city, both in terms of knowledge, religion, and honesty, will diligently..."

[*Latin ed. p. 288*]

288 In PANORMITANA, concerning the examination by sight and touch in the inspection of women. "Indeed, according to the instruction of the Holy Office, the matron who must preside over all the actions performed by midwives and experts must not be any person, but one who possesses ancient virtues, and is subject to no exception." No one doubts that the observance of these laws is of great importance in matrimonial causes, since it often happens that these laws prevent some collusion or fraud between spouses from being discovered, which in the present case seems to have occurred, as the spouses and seven witnesses suspect. And truly, these seven witnesses, namely the father, four of his sons, and two sons-in-law, in the case of Carolina Locasto, swear upon absolute impotence of the spouse, Ceraulo, and all are, as they are connected by blood, entirely in agreement in asserting her truthfulness, innocence, and integrity, both before her flight with John Baptist Ceraulo, as well as after a month of cohabitation with the same; and with one voice and the same words, they proclaim her as an immaculate dove, and assert what she has declared. Oh, truly singular innocence, oh, new simplicity, oh, unheard-of innocence! A

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woman, nineteen years of age, having previously received amorous letters from her lover, spontaneously leaves her paternal home, and flees with him, cohabiting with him for a space of one month, and experiencing the efforts and desires of the flesh within herself, and yet she is heard to declare herself innocent and childlike before the judge. Furthermore, the events that follow the celebration of the marriage, carefully considered, confirm what has been said above, and demonstrate the collusion between the spouses and the witnesses. For, on the second day after the beginning of the marriage, she is informed by the sister of Carolina, of the consummation of the marriage, and suspects the impotence of Ceraulo; the midwife of the family, Elizabeth Spata, is summoned, and after an examination, the bride is declared a virgin; the bride is then dismissed by Ceraulo, and the paternae.

[*Latin ed. p. 289*]

PANORMITANA, 289, was restored to the home, and from the aforementioned Ceraulo, a formal declaration was obtained, if not through material, at least through moral coercion, in which he accuses himself, begs for forgiveness, somewhat confesses his impotence, promises to abstain from relations with Panormo, and commands that what he promises be carried out without any delay, so that no further knowledge of him might be had. All of this was completed in a short space of time, with great haste, and executed solely by private authority, contrary to the laws of the Church; does this not reasonably present us with evidence of collusion and fraud? That such things happened with John Baptist Ceraulo is not surprising; for he, being an atheist, having already obtained complete satisfaction from his wicked desires, could not desire anything more than to enjoy his full freedom, and to avoid perhaps greater evils that might be imminent. Now, it is necessary to examine the evidence that is presented to prove Ceraulo's absolute impotence: to this end, we must consider that principle of law, unanimously accepted by the doctors, which is that perpetual impotence renders subsequent marriage invalid. Indeed, impotence is to be understood in a strict sense, according to the decrees *tit. De frig. et malef.*, and it means nothing other than a true inability to have carnal intercourse. With these premises, it is clear that, according to canonical sanctions and the common opinion of canonists, when it is a question of impotence for intercourse, the most reliable proof is the examination of the body. The confession of the spouses, and the testimony of seven witnesses, are auxiliary and corroborating proofs. Therefore, if the primary proof is flawed, the others are also weakened. But in the present case, the most reliable proof is not only flawed, but is entirely absent, as I have said above, because Ceraulo has always and truly been contumacious, has never appeared before the tribunal, and has never submitted himself to the examination of doctors; and consequently, no judgment regarding his impotence can be formed

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according to the law. Therefore, only the testimony of seven witnesses remains.

[*Latin ed. p. 290*]

290 In Panormitana, let us consider this briefly: it must be noted that the witnesses, with one accord, swore to the words of the aforementioned individual, whose supposed virtues are greatly extolled. Furthermore, it is stated that, despite Ceraulo's carnal efforts, he did not consummate the marriage with his wife. However, it must immediately be observed that the spouses lived together for only one day after the marriage, and that, after this day, and due to the suspicion of impotence, the bride was dismissed by the groom. I said only one day, because the time of cohabitation of the spouses before the celebration of the marriage is irrelevant to our matter; for, according to the sacred canons, a period of three years, not one day, is granted to the spouses. Furthermore, it is possible that Ceraulo simulated impotence, or that he had intercourse with his wife in an unnatural manner, seeking only pleasure, or that he acted so cautiously that the integrity of his wife was not violated. But, granted, and not conceded, that is to say, admitting all that happened during the month of cohabitation and the aforementioned forgiveness with Ceraulo, what follows? Does this prove his impotence? May it be so: but it only demonstrates the fact of the lack of consummation, and does not demonstrate his absolute and perpetual impotence. But it is undeniable that it is one thing to speak of the fact of consummation, and another to speak of the power to consummate; the fact of consummation, or lack thereof, is external and falls under the senses, while the power to consummate pertains to the mysteries of nature, so that neither the eye, nor the knowledge of the most skilled physician, can render judgment upon it. Therefore, Reiffenstuel, in *lib. 4 decret*, *tit. De frig.* and *male f.*, n. 34, says: "Even if both spouses acknowledge, in the external forum, the presence of perpetual impotence on the part of one, the judge cannot separate them, nor annul their marriage, unless first a legitimate proof, prescribed by the sacred canons, is adduced." This canonical proof must, above all, be strictly conformed to the celebrated Constitution of Benedict XIV, *incipienti Bei miseratione*, and to the instruction of the Sacred Congregation of the Council, of August 22, 1840, and also to the S. Of-

[*Latin ed. p. 291*]

In PANORMITANA, on the 29th of the month, it is undoubtedly the case among all, whether theologians or canonists. Concerning the bath of warm water, to be examined by experts before the woman immerses herself in it, not a single word is found in the proceedings. No notes were presented by the parties, and whereas the law requires five witnesses in matters of this kind, only two are admitted; and the questions for the examination of the

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parties, sealed and signed, are not presented, nor are the instructions for the midwives provided by experts. Finally, what appears utterly incredible, the most important matter in this affair of such great importance is entrusted to the German sister present, namely, the most serious duty of a matron, which is to examine the body of the aforementioned woman, contrary to the instructions of the Holy Office, in which it is expressly ordered that the matron must not only possess ancient virtue, but must also be subject to no exception whatsoever; and this exception is absolutely permissible in the present case. The judgment of the Panormitana court is expressed as follows: "The petitions of this De Locasto should proceed, and therefore the marriage in question is declared null." From all of these things, the nullity of the proceedings rightly follows, as Piringhio states in title 15, De frig., and male f., n. 33: "The form of proof prescribed by law, due to its omission, vitiates the judgment." Felinus also states in De rescript. C. Cum dilecta IO ampi, first: "The omission of the form in any, even the smallest part, vitiates the entire process." Finally, Fagnanus states in De poenit. et remiss. C. qui Presbyterum, n. 51: "The form must be observed even in the smallest matters, otherwise the act is null." Nevertheless, considering the proceedings of the first judgment, without any examination of the parties, we maintain that the double examination made by Elizabeth Spata, the midwife, on the genitals of the aforementioned woman, a few moments after the marriage, is of no value, since it lacks all the conditions required by the sacred canons, and recently stated. Regarding the examination carried out by the Panormitana court, we note that it is somewhat deficient: 1. due to the defects mentioned above, 2. due to the duty of the matron being performed by the German sister present, 3. due to the long passage of time that has elapsed since the marriage.

[*Latin ed. p. 292*]

292 In Panormitana, ad effectum investigationis, nempe per quinque annos, una femina, si casta vivit, potest apparere talis, qualis vere non est, scilicet integra, cum sit violata et corrupta. Hoc, praeter cotidianam experientiam, confirmant periti in arte, sive medica, sive chirurgica. Unde Zacchias, in libro 4, Quaestionum Medico-Legalium, titulus 2, quaestio 1, numeri 28 ad 31: "Potest," dicit, "hymen integrum manere, cum mulier corrupta sit, praesertim si virga tenui existente in viro, orificium hymenis sit ampliusculum; nam absque hymenis laceratione, mulier corrumpi potest et concipere." Et inter recentiores, Barzellotti, in opere cui titulus: "Questioni di medicina legale," liber 1, numerus 78, docet "quod bene evenire potest consummatio matrimonii, et conceptio absque hymenis fractione."

Nunc mihi esset opportunum ad examinandam sententiam appellationis, a Curia Cefaludiensi lata die 11 Maii 1888, de qua in praemissis dixi peccare per excessum. Quae verba non ita sunt intelligenda quasi debilis sit, aut claudicans, ideoque infirmanda; absit; quinimo omnino tenenda vide-

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tur: sed quia Defensor aequitatis limites excessit in sui officii executione, ipse enim nimis intentus matrimonii validitati vindicandae, totis viribus eiusdem matrimonii consummationem defendit, et matrimonii consummationem strenue sustinet, quia, iuxta ipsum, de virginitate in desponsata nulla haberi potest certitudo: quasi unum idemque sit matrimonium ratum, seu validum, et matrimonium consummatum. Nam saepe verificantur matrimonia valida, et non consummata, quod in praesenti casu revera accidisse indubium videtur.

Ut autem excessus in casu clarius pateat, ex dicendis apparebit. Defensor matrimonii, ut integritatem Carolinae LoCasto absolute excludat, varias congerit sententias peritorum in arte, sive medica, sive chirurgica, ex quibus demonstrare conatur nullius ponderis esse quaelibet inspectio in partibus genitalibus feminae, ita ut numquam certi esse possimus de ipsius integritate, vel corruptione.

[*Latin ed. p. 293*]

In Palermo, it is clear to all that all the teachings and rules concerning this matter, which celebrated authors, both ancient and modern, have transmitted to us, are utterly useless. Likewise, the wise prescriptions of the Church regarding the execution of such examinations are superfluous, and especially the most celebrated constitution of Pope Benedict XIV, the Instruction of the Sacred Congregation of the Council of August 22, 1840, and the Instruction of the Holy Office; which no one of sound mind would dare to assert. Absolute, and physical certainty is not required by the sacred canons, because it is often impossible to obtain. Therefore, as Coscius writes in book 3, chapter 2, paragraph 146: "When it is a question of a hidden fact, from which witnesses are absent, the proofs cannot be certain with physical certainty, but they are sufficient with moral certainty, which is capable of establishing the mind of the judge, just as are conjectures, indications, and other arguments to be considered together; as the canonists and theologians commonly teach." The same truth is confirmed by Zacchia in book 4, title 2, question 2, paragraphs 8-9, who, after describing the symptoms concerning the hymen, color, and union of parts, both in virgins and in those who have lost their virginity, concludes: "Therefore, all these signs, conspiring together, provide clear evidence of intact virginity. For what each one cannot testify to by itself, together they can. Therefore, if, in addition to those things that we have already noted, those things that will be noted below appear, it will be permissible to render a judgment on the incorruptibility of virginity that is not empty." Although marriage is to be considered valid in this case, we cannot say that it was consummated. This is proven by: 1. The instantaneous separation of the spouses for the cause of non-consummation, the day after the celebration of the marriage. 2. Two examinations of the genitals, performed immediately after the marriage, by the midwife Elizabeth Spata, and testified to under oath in court. These

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examinations, although carried out by private authority, are valid because they were performed by a suitable person, and were carried out publicly, and after five years.

[*Latin ed. p. 294*]

5294 In Panormitana, postquam ad Tribunale iuramentum confirmatae sunt, praebent validas probationes ad apertissime et manifeste demonstrandam virginitatem instantis et inconsummationem matrimonii. 3. Periti in arte medica ad hoc electi. 4. [Obstetrices a Superiore designatae. 5. Testes omnes, septima manus ad deponendum in casu vocati. Hi omnes, recensi, unanimiter virginitatem instantis apertis verbis affirmant, et sub sanctitate iuramenti defendunt. Indubitatum est Summum Pontificem verum in terris Christi Vicarium, cui suprema auctoritas in universa Ecclesia polleat, et qui vinculum matrimonii rati et non consummati relaxare potest. *Coscius, de separ. et divort., lib. 1, cap. 26, n. 3.* Ceterum, ut dispensatio valeat, vel saltem ut recte impertiatur, oportet ut adsint gravissimae causae pro ipsa dispensatione concedenda. « Licet enim, ut docet Sánchez de Sacram., matrim., lib. 2, disp. 15, n. 5, probabile sit valere dispensationem Pontificis in matrimonio rato absque causa iusta concessam, verius tamen est, uti docet n. 6, conclus. 2, dispensationem absque causa iusta factam non tenere: quia, ut iam docuerat disp. 13, n. 6, indissolubilitas matrimonii est de iure naturali, et divino, in quo dispensatio Pontificis absque causa iusta concessa, est prorsus irrita: ut Theologi communiter, et iuris utriusque doctores fatentur. » Restat ergo tantummodo inquirendum an in praesenti casu iustae ac sufficientes causae adsint pro matrimonii rati, et non consummati, dispensatione concedenda. Causas autem adesse graves ad dispensationem concedendam nemo dubitat si consideretur quod sponsus patriam dereliquerit, nec requisitus inveniri potuerit; quod sponsa adhuc in fiorente aetate castitatem servare perpetuam deberet; quod graves extiterint discordiae, quae iterum exardescerent.

ANIMADVERSIONES DEFENSORIS MATRIMONII EX OFFICIO. Carolina Locasto, quae matrimonium, quod, volvente anno 1882 sub die 21 Maii, in aetate annorum undeviginti constituta, iniit cum Ioanne Baptista Ceraulo, duos supra quadraginta annos nato, raptus, clandestinitatis impotentia, et eque vitiis infectum, anno 1887 proclamavit. Eique fortuna in primo iurisdictio-

[*Latin ed. p. 295*]

PALERMO, 295th day. The matter originated in Palermo, for the Palermo judge, on November 28, 1887, without ambiguity, decreed: "Let the petitions of this Locasto proceed, and therefore let the marriage, of which mention is made, be declared null." However, the cause, through an appeal for the vindication of the sacrament, was brought before the Bishop of Cefalù, according to the apostolic letters of the Most Holy Pope Pius IX – to many

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of the most serious –; and there, after being examined according to the procedures of law, the Bishop of Cefalù, on May 11, 1888, with Joseph Locasto, Francis Bianca, and Salvatore Cino assisting, overturned the judgment of Palermo, and declared the marriage to be valid in all respects. Let no one think that Carolina, who is alleged to be poor, succumbed defenseless. Indeed, from January 13, 1888, Carolina, in a legally valid manner, appointed a defender, and in such judgments, she employed a probatory counsel, which is neither necessary nor customary, but rather a luxury. Moreover, on the day of the dispute, before the discussion began, I also saw another advocate, named Misuraea, who repeatedly pleaded Carolina's case. After so many events, Carolina acknowledges the value of the marriage bond, and she seeks a dispensation from the Most Holy Prince concerning the marriage, which she claims was consummated. If you hear Carolina, John is a useless tree in the marital garden, and he did not have marital relations with her for the entire month before the wedding, nor for several days afterward. Nevertheless, she married this man, because the girl, at the age of sixteen, was ignorant of marital matters. By the way, I should mention that Carolina was nineteen years old, not sixteen. It is not easy for me to believe that a Sicilian girl, who, according to what is said, had eloped with her lover, was endowed with childish innocence at that age. Furthermore, the conduct of John Ceraulo is most alarming, who, after having taken Carolina, and after having consented to the marriage, one day solemnly declared before many witnesses that he had left Carolina untouched, as pure as Santa Maria sopra Minerva, and that he was incapable of marital relations; Palermo, however, could not find him, and the investigating judge was unable to apprehend him.

[*Latin ed. p. 296*]

296 PANORMITANA. It is known that the people of this place are skilled in deceit, fraud, and devising snares. However, it is unbelievable how much good faith has been demonstrated by the actress in question. Indeed, the examination of the actress's person, which is now necessary to determine the truth with all due caution, regarding the alleged pregnancies and abortions practiced from time immemorial, has been neglected. For the actress's person was first examined by a certain midwife, with the consent of Carolina's father, and then by three midwives, with Carolina's sister performing the duties of a matron. Therefore, the testimony of the midwives and doctors must be carefully considered. But, if the actress believes what she asserts, let an examination be carried out according to legal procedures. Namely: first, a woman who performs the duties of a matron must be present, who, according to the instructions of the Sacred Congregation, is "of ancient virtue and subject to no exception"; second, the midwives and doctors who are to examine her must be chosen in such a way that they can perform their duties without revealing the

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actress's name or identity, or at least have the opportunity to speak with her beforehand; third, the midwives, after a preliminary bath of warm water, must separately examine the actress's person; then, each midwife must provide a written report of the examination before knowing what the other midwives think or report; fourth, the matron and the midwives must subject the actress to an oral examination; fifth, finally, the aforementioned doctors must be subjected to a formal examination, and their judgment must be sought regarding the reports and testimonies given by the midwives. Given these circumstances, without delay, I request a response to the following question: "Is it necessary to consult with the Holy See regarding a dispensation from a valid but unconsummated marriage in this case?" The answer is: "No," unless "the proceedings should be delayed and completed, according to the instructions to be given." With the foregoing in mind, the following question is to be considered: "Is it necessary to consult with the Most Holy See regarding a dispensation from a valid but unconsummated marriage in this case?"

[*Latin ed. p. 297*]

PANORMITANA 297 RESOLUTION. The Sacred Council, after considering the matter on July 12, 1890, decided to respond: Affirmative.

I. It is possible to annul marriages in which the woman has declared: "I wish to be a mother, I wish to have children, and for this reason I accepted a husband, but the man I accepted is of a frigid nature, and is therefore unable to fulfill this, for which reason I accepted him."

II. However, all of these things, proclaimed by the woman, must be proven; and if the wife is a virgin, and it is established that she remained a virgin, even many years later, she may appeal and deserves to be heard.

III. A three-year period of cohabitation is tolerated when the impediment of impotence is doubtful, if the frigidity cannot be proven; but it is not required when it is certain, lest the chastity of the spouses be placed in the greatest danger.

IV. In order that the woman's appeal not be rendered futile due to the obstinacy of the husband, who, having received a peremptory citation, disregards it, or prevents the citation from reaching him, or maliciously hides himself, witnesses must nevertheless be admitted, and if it appears from the cause that a final judgment can be reached.

V. Carnal impotence in a marriage renders the marriage, as if it were a natural contract, devoid of the matter of consent, and therefore null; because the power to procreate is of the essence of the matrimonial contract.

VI. In proving the impotence of the husband, so that the woman may not, contrary to justice, be forced into celibacy, a certain and conclusive proof is not required, but it is sufficient that the said impotence be so probable that the Roman Pontiff may consider it to be true, so that he may be moved to

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grant a dispensation.

VII. The impotence of the husband having been proven through the examination of the girl's body with the use of a bath, and through the sworn confession of the woman, confirmed by the testimony of all witnesses, is finally confirmed by the confession of the husband himself.

VIII. Legitimate proof, desired by the sacred canons, must be presented before the judge declares the marriage invalid, even if both spouses confess in the external forum that, on the part of one, there is a perpetual impotence.

[*Latin ed. p. 298*]

298 PALERMO IX. Therefore, the nullity of judicial proceedings rightly follows, and the judgment is vitiated, if the form of evidence, as prescribed by law, is not observed, even in the smallest details. X. The sacred canons do not require absolute and physical certainty, because it is often impossible to obtain; for when a hidden fact is in question, witnesses are absent; and proofs can be supported by a certainty that is not physical, but only moral. CARCASSONNE. OF JURISPRUDENCE. On June 14, 1890. Session 24, chapter 1, Concerning Appeals. SUMMARY OF THE FACTS. After the Concordat between Pius VII and Napoleon, Consul, which was initiated and signed in Paris on July 15, 1801, when the state of the Church was being completely restored in Gallus, after being almost entirely destroyed by immense persecution, it was the first concern of the Bishops sent to the new Dioceses to determine the titles and rights of their cathedrals and chapters. For this purpose, Arnold of la Porte, Bishop of Carcassonne, on May 18, 1803, published a decree in which he established the following: "Our cathedral church will be solemnly erected in the church of St. Michael in this city. Formerly, the cathedral church of the Carcassonne Diocese was that of Saints Nazarius and Celsus; but since the care of that church has not been restored, it does not appear from the records." - "The clergy of our cathedral church," said the Bishop, "will consist of ten titular canons. The Cathedral Curate and the Rector of the Seminary will hold positions among the titular canons. All rights that could be exercised in the said Cathedral are reserved to him." Furthermore, Cardinal Caprara, in his letters of April 6, 1802, which begin with "Cum Sanctissimus," and in which he ordered the Ordinaries to carry out the Concordat,

[*Latin ed. p. 299*]

Carcassonne. The authority and prudence [of the bishop] are to establish and define all matters concerning the establishment, governance, administration, direction, and celebration of divine offices of the chapter; therefore, the Bishop of Carcassonne intends to dedicate himself to establishing these regulations. He has written statutes, which largely coincide with those of Paris and other places in France, and in the last four

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articles, which are particularly relevant to us, he has specifically provided for the sacred functions and the care of souls in the cathedral church: The Bishop attends the divine offices whenever he deems it appropriate. The canons attend according to their established schedule. The pastor attends the divine offices in his own stall. The solemn Mass of the chapter on Sundays and feast days is the Mass of the cathedral parish. Funerals, baptisms, marriages, services, and sermons are performed by the pastor or his vicars. Only the Bishop determines the time, place, and ceremonies for the various offices. In the meantime, on February 26, 1807, the legate of Cardinal Caprara, by his letters, ratified and confirmed the erection of the Carcassonne cathedral. It should be noted, however, that it is not entirely certain whether the Cardinal's legate approved the erection of the cathedral solely by his decree, or whether he also approved the statutes of the chapter. Furthermore, the current Bishop of Carcassonne states: "However, neither I nor the chapter have any doubt that the aforementioned [statutes] were already approved by the civil government, and that the legate, by his apostolic authority, confirmed them." Whatever the case, it is worth remembering that all proceeded peacefully within this chapter until recent years, when, after a priest named Larroque was called to care for souls in the cathedral church, which is still dedicated to St. Michael, he began to strongly resent his fellow priests. He preached that the chapter was merely a guest in the church of St. Michael, and that the Bishop's seat was only temporarily and superficially established there; therefore, he claimed that parochial rights, along with the exercise of all sacred functions, should be fully and freely his, in his church, just as it is for other pastors in their parishes.

[*Latin ed. p. 300*]

300. CARCASSONE. When, however, neither the Bishop nor his Chapter seemed to be acting according to established custom, in the year 1888, an appeal was made to the Sacred Congregation of the Council. After the decree of Bishop de la Porte, by which the church of Saint Michael was established as a cathedral, was presented, the same Bishop was denounced as being, above all, attached to the doctrines of the Pistoian Council, because in that decree, contrary to what is right and lawful, he reserved all rights pertaining to the cathedral church in his own hands. When the Bishop was asked for information and his opinion on the matter, after hearing the Chapter, and seemingly intent on protecting his own and the Chapter's rights, he responded: "The facts presented in the document are either not based on truth, or false conclusions are drawn from them. And after expressing his opinion on each individual article, he concluded: "Peace and harmony have always prevailed between the Chapter and his predecessors, Maurice Larroque. And he himself has always approved of the status of the cathedral church, before a parish priest was appointed. Indeed,

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as men of good faith affirm, he promised that he would never act against the rights of the Chapter; but soon, forgetting his promise, and although distinguished by piety, his nature being more inclined to contention, he frequently stirred up disputes. It seems he intends, as he boasts, to drive out the pious clergy of the church of Saint Michael, along with the Bishop, as if they were strangers in the cathedral. And further: "It is my greatest hope that the Sacred Congregation of the Council, after mature deliberation, will uphold the state of affairs in my cathedral, as established by the Apostolic See in all the cathedrals of Gaul, even in those where the parish priest is not a member of the Chapter; for any diminution of the Chapter's rights would give rise to great disturbance. The Chapter performs its duties most piously, and the parish priest, like his predecessors, is entrusted with the care of souls without any impediment. The Synopsis of the Dispute. The point and foundation of the entire argument in favor of the parish priest seems to be that the church of Saint Michael is not, except precariously and temporarily, a *parochial church*.

[*Latin ed. p. 301*]

CARCASSONNE. The cathedral of Alet, designated and appointed. This arrangement cannot be called into question, since it is expressly stated in the controversial decree of Bishop de la Porte, and the current Ordinary of Carcassonne himself confirms it with these words: "I confess that, for very serious reasons, the former church dedicated to the Holy Nazarius and Celsus was abandoned, and the cathedral seat was transferred in the year 1803 to the church of Saint Michael in the same city, for a time, as he says." Indeed, the placement of the chapter and the cathedral in the church of Saint Michael seems to have been so precarious from the beginning that Cardinal Caprara, in his decree of confirmation, did not even mention the church of Saint Michael, but simply declared the church of the Holy Nazarius and Celsus to be the cathedral of the Carcassonne diocese. Given this fact, two conclusions seem to follow in law: first, that the care of souls does not reside, even in a limited sense, with the chapter, but entirely with the parish priest; and this, indeed, seems to be demonstrated by another argument. For, at the beginning of the restoration, parishes and chapters were established separately in cathedrals; and it was only in the year 1807 that the first Archbishop of Paris united the parish and the chapter in his archdiocese. And although the Minister of the Emperor subsequently proposed that the other Ordinaries should follow the example of the Archbishop of Paris; nevertheless, the majority of the Bishops seem not to have heeded these exhortations, nor to have given a favorable ear to them. Hence, the Council of State had to acknowledge, by decree of July 24, 1824, that only 33 such unions had been made up to that time. Among these, the union of the parish of Saint Michael with the Carcassonne cathedral chapter is not included. Therefore, it is confirmed that the parish of Saint

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Michael is entirely separate from the cathedral chapter. But if, precariously, if without any legal or habitual care, if, in a word, the cathedral chapter of Carcassonne entered the church of Saint Michael as a guest, then greater consequences follow. As is stated in the Fulginate document concerning the Suppression and Union of March 22, 1841, cited in Avezzano.

[*Latin ed. p. 302*]

Carcassonne. Concerning the nullity of a union and a pension, dated September 3, 1870, the following is read: "When the pastor of one parish enters the church of another, either for repairs or because the church buildings have collapsed, he must dwell there as a guest, limiting himself to erecting an altar beneath the title of the ancient parish." It seems that the same applies to the Chapter. Conversely, it is a most common and well-known thing that the pastor can perform all sacred functions in his own church, to say the parochial Mass, to perform triduanal prayers, novenas, and other supplications, even those not strictly parochial. It suffices to recall that the Sacred Roman Congregations, on August 19, 1872, decreed: "The pastor is to be held to celebrate Mass on Sundays and to perform other functions in the parochial church." Furthermore, it is also the case that a Chapter is received in the same church, as decreed by the Sacred Congregation in Pampilona, in Jur. Paroch. on January 23, 1886, and January 29, 1887. And even if some were to call for a contrary custom, either of forty days or of a hundred days; such customs can never prevail against parochial rights, as is clear from Baren, Jur. Paroch., August 28, 1756; Nullius, Jur. Paroch., August 29, 1725; Firmana, Iurium, July 30, 1877, § Urget; and Oritana, Jur. Paroch., September 22, 1877, § Incassum. And even, finally, refuge can be taken in either the episcopal decree of May 18, 1803, or in the capitular statutes, which are perfectly in agreement with it. For it is not permissible for Bishops, as the Bishop of la Porte otherwise stated, to retain parochial rights for themselves, in order to transfer them to the Chapter, as was handed down by Fagnano in cap. Ex part. 6, De off. vic., n. 19, with common consent. And therefore, that Bishop, even considering only common law, cannot excuse himself from an abuse of power in his actions; indeed, he seems to have fostered the doctrine of the pseudo-synod of Pistoia, which was condemned by Pope Pius VI in the bull Auctorem fidei § 7, when he retained and attributed to himself all rights in the church of Saint Michael, so that he could dispose of them at his pleasure. This must be held even more firmly, and therefore, whether it is an episcopal—

[*Latin ed. p. 303*]

CARCASSONNE. The decree of the year 1803, or the subsequent capitular statutes, require amendment, which is easily understood by anyone who considers that the things ordered in the decree of the year 1803 and in the capitular statutes are, day by day, causing more and more damage

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and impediments to the proper governance of souls. For the parish priest testifies that the custom of the canons of chanting Mass and Vespers daily is maintained only with great inconvenience to the parish, as well as to the parish clergy, who very often do not have the freedom to chant Mass for the dead on the day of the funeral. Given these circumstances, it is entirely necessary to establish a new order of things in the church of St. Michael, as the parish priest earnestly requests. DEFENSE OF THE BISHOP. On the other hand, it must be observed that the assumption of the archpriest Larroque appears to be repeatedly false, and that the conclusions drawn from it are therefore not legitimately inferred. – Indeed, given the archpriest's assumption that the Bishop, along with his chapter, has temporarily and as if in the parish's own buildings, taken up residence in the church of St. Michael, it does not seem that what he contends follows. For although a parish priest, being driven out or removed from his seat and received elsewhere, must there behave as a guest; this cannot be said of the Bishop and his chapter in a similar case. For the condition of a parish priest and a Bishop is not the same; and in the case of the Bishop, we are not dealing with a migration from equal to equal, but with a migration from the superior to the inferior; and the Bishop is a pastor in every church of his diocese, and must perform the primary functions everywhere and hold the principal place, and likewise the chapter, because it participates in the Bishop's authority, and with him constitutes "one and the same body." *De Luca, De praeem. disc. 17, n. 14.* Moreover, if, as the same De Luca states in *Miscel. disc. 29, n. 1-8*, in common with others, a Bishop who resides for the greater part of the year in the town of his diocese may use the church of that place as a cathedral for pontifical functions, if it "rather imports honor to the church and its rector"; a fortiori.

[*Latin ed. p. 304*]

304 CARCASSONEN. Hoc fieri potest, si Episcopus non pro libito, sed ex necessitate causa, antiquas cathedrales aedes relinquere et apud aliam ecclesiam, etsi perfalcitati, hospitium quaerere cogatur. Nec satis, nam si Episcopus et capitulum in aliqua parochiali ecclesia ad tempus necessario di versentur, inter eos unio aequa principalis habetur, quae semper verificatur, quoties unio momentanea sit ad tradita per S. C. C. in S. Miniati 12 Dec. 1733, Meliten. Dismembrai. 15 Ianuarii 1738, Leopolien. Uiiion. 1 Sept. 1736. Atque in unione aequa principali in sacris canonibus statutum habemus, ut essentialia utriusque partis iura, quoad possibile est, intacta serventur et in conflictu inferior superiori cedat et minus dignus digniori. Ideoque in themate, et in supposito quidem unionis aequae principalis, in quo parumper haeremus, consequens erit, ut essentialia capituli et parochi iura serventur, et in conflictu, et ubi animarum praeiudicium non subintrat, parochus, utpote inferior et minus dignus, Capitulo et Episcopo cedere teneatur. Porro ex ipso Tridentino

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sess. 24 cap. 4, 12 et 13 De reform, plane edocetur proprium parochorum officium esse sacramenta ministrare, praedicare et populum christianam doctrinam docere: vicissim vero canonicorum esse divina obire officia, atque in choro ad psallendum vacare. Et quamvis parochi ad alia sibi non omnino propria munera peragenda admittantur, imo et compellantur, quoties in sua ecclesia soli ac liberi sint, nihilominus in suppositae unionis casu, ne exitialis rerum confusio oriatur et ne capitulum inter et parochum continuae contentiones habeantur oportet, ut utraque pars intra limites sibi a iure stricte praefinitos se contineat. Quod quidem in ecclesiastica disciplina omnino receptum videtur: nam SS. R. R. C. decrevit in Baionen. 13 Septembris 1879 ad VI « Functiones in ecclesia cathedrali, quae simul est parochialis, spectant ad capitulum, excepta tamen sacramentorum administratione. »

[*Latin ed. p. 305*]

CARCASSONNE. 305 Therefore, even processions, as the same Holy See decreed on May 23, 1873, with these words: "Processions of the collegiate church before or after Mass, and at Vespers, belong to the hebdomadary." And, a fortiori, the celebration of solemn Masses, Vespers, and other offices with singing; for this was expressly cautioned against by Benedict XIV in the constitution *Cum semper oblatas*. Nor does it seem otherwise to be said concerning the blessing of the baptismal font during the Vigils of Easter and Pentecost. Indeed, in the first place, from the decree of the Holy Roman Church of the City and the World, dated December 10, 1703, number 6, it is denied that the blessing of the font pertains to the mere parochial rights. Moreover, this function, in the cathedral, according to *eoerem. Episc. lib. 2 cap. 27 n. 16*, is reserved to the Bishop, and is said to be performed by him, or, if he is hindered, by someone of the more distinguished chapter, whom the Bishop himself designates. Furthermore, in this matter, the question of the blessing of the font seems to have been raised by the parish priest out of bad faith rather than a just cause for doubt, since it is known from testimonies that he obstinately refused to perform this function. Therefore, since the functions of both the parish priest and the chapter remain within their own distinct province, in the case of a union, both functions can perfectly coexist within the same church, as we also see happening throughout the City. Indeed, even in the cathedral of Carcassonne, they seem to proceed properly, and are opposed only by the archpriest, as the Ordinary reports. Therefore, even if the hypothesis is admitted that the Bishop has, for a time and as if in a guest capacity, taken residence in the parochial church of Saint Michael, it does not therefore follow that what the archpriest wants to introduce should necessarily be done. For, from the union, the chapter flows equally between the parish and the diocese, so that the parish priest must strictly confine himself within his own limits, and allow the Bishop and the chapter to exercise their functions.

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But, moreover, the constitution of the cathedral church of Saint Michael does not seem so perfunctory, as the opposing party supposes. *Acta, Tom. XXII. fase. COLXIX. 20*

[*Latin ed. p. 306*]

306 CARCASSONNE. It remains unknown how it happened that the old church of Saints Nazarius and Celsus in the diocese was omitted [from restoration plans]: although we know that, during the Revolution, many churches, even cathedrals, were alienated, and these alienations were recognized by the Apostolic See, as stated in the Concordat, title 5, articles 1 and 2. Therefore, it is not rash to suppose that the church of Saints Nazarius and Celsus was rejected because it was either destroyed or alienated; and for this reason, the Bishop de la Porte established the cathedral temple of Saint Michael "at least provisionally," because it was no longer possible to return to the original, ancient building. Whatever the case may be, the current parish priest, Larroque, states and acknowledges that there is hardly any hope of restoring the old cathedral. Therefore, it seems that the case has occurred, as Pitonius mentions, in his *Disputationes*, number 9, paragraphs 8 and 11, namely that a translation, although initially temporary, becomes permanent; and this, it is believed, happened when the restoration to the original location became morally impossible, and forty years have passed without any hope of repair. "For in this matter," he says, "a probable hope of repair is understood if it is imminent." But in this case, as the very party involved admits, there is no hope of restoration or repair, and not forty, but eighty, or even more years, have passed in this state. Furthermore, if the union of the chapter with the parish of Saint Michael, although initially temporary, has become, at least in the present, permanent, all the less can the parish priest rise up against the Bishop and the chapter, and reject them, treating them as if they were in a lower position. However, all of this should be understood as being stated for the sake of thoroughness; and it should be clear that, even in the hypothesis of the archpriest, nothing descends from those things which he desires and strives for. Moreover, the very basis and foundation of his argument can rightly be challenged. Indeed, the Bull of Pope Pius VII, *Qui Christi Domini*, dated November 29, 1801, completely extinguished the old order of the churches of France, and ordered a new one to be created. To the old order of the churches...

[*Latin ed. p. 307*]

CARCASSONE. 307 Thus, having thoroughly suppressed and extinguished [the claim], it follows that the ancient cathedral church of the Carcassonne diocese, dedicated to Saints Nazarius and Celsus, could not claim greater privileges and powers than the parish church of St. Michael; indeed, both have been stripped of all their ancient rights. From this, in

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a single stroke, all the arguments of the archpriest are overturned, and the foundation upon which his entire contention rests seems completely undermined. For he himself assumes that the lord and rector of the church of St. Michael is not a bishop, nor a chapter, but a simple parish priest, because he had held this position from the beginning and before the French Revolution; and therefore, the chapter and the episcopal cathedral are not in their own place, but in a foreign place, as guests, and consequently are subject to the demands of the rector and parish priest. But, as stated above, this assumption is false in every way: nor can the current parish priest of St. Michael possess greater rights than those which were granted to him by the decrees of the bishop during the restoration of the Carcassonne diocese. Furthermore, in our case, there is an explicit approval by the Apostolic Legate for the cathedral church of Carcassonne, which certainly extends to the episcopal decree of May 18, 1803, by which the cathedral was established; but it probably also extends to the chapter statutes themselves, as the bishop and chapter protect [them]. Therefore, to dispute the value and legitimacy of these actions now seems almost reckless. Furthermore, with regard to the decree of erection in particular, it is worth remembering that if, in it, the bishop ordered that all spiritual rights pertaining to the cathedral should remain in his hands for the time being, he did so not in order to claim these rights for himself in perpetuity; but rather, shortly thereafter, he divided them, granting a portion to the parish priest and a portion to the chapter; he did this in order to be able to act with greater deliberation regarding what was then prohibited, and in order that, after mature consideration, the rights of all might be properly established, and in the meantime, the rivalries between the canons and the parish priest might be avoided. As for the chapter statutes, it is sufficient to remember that they are very similar to those of Paris and other [places].

[*Latin ed. p. 308*]

308 CARCASSONNE. These pertain to matters concerning Carcassonne, which is located in Gallus, and one example of which was recently examined by the Sacred Congregation in Tarbes on April 28, 1888, and was not disapproved, but referred to the Sacred Congregation for Affairs of the Eastern Churches, from which it was, it is said, finally approved. Given these circumstances, the reason is not apparent why a new agreement should be entered into between the chapter and the parish priest: for the present arrangement of the choir, established according to legitimate statutes, does not contradict either common law or natural equity; rather, it is in conformity with the practice of all other cathedrals in Galliae, and moreover, is found to be supported by almost centenaria [a hundred years] of practice. Indeed, as the Rota in Arezzo, Juris Pontificii, paragraph Ansaldo states: "Custom observed should be respected, rather than to introduce discord with some novelty; and it is too harsh to change what has

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been preserved for a long period of time." To this is added the expressed wish of the Bishop, that nothing be changed, lest "even the smallest diminution of the chapter's rights would give rise to great disturbance." Therefore, the following questions were proposed: I. Whether the decree of the Bishop of May 18, 1803, is applicable in this case. II. Whether the celebration of the solemn Sunday Mass and Vespers, the procession, and the blessing of the font during the Vigil of Easter and Pentecost pertain to the parish priest in this case. And, to the extent that it is affirmative, III. Whether and how a new mode of living should be established between the chapter and the parish priest in this case. RESOLUTION. The Sacred Congregation of the Council, after discussion on June 14, 1890, decided that the following should be answered: Nothing should be changed, and no more. FROM WHICH IT MAY BE GATHERED: I. When the Bishop and the cathedral chapter constitute one and the same body, they are distinct from each other in every diocese, and perform the primary functions, holding the principal position.

[*Latin ed. p. 309*]

CARCASSONE. 309. The Bishop may, for liturgical purposes, use the church of a certain town within his diocese where he resides for the greater part of the year, and this is to the honor of both the church and its rector.

III. When the Bishop and Chapter are temporarily separated in a parish church, a principal union should be established between them; in this principal union, it is established by law that the essential rights of each party must be preserved as much as possible, and in conflict, the inferior must yield to the superior, the less worthy to the more worthy.

IV. The rights of the Canons consist in performing divine services and attending the choir for chanting; the rights of the parish priest, according to the Council of Trent, are to administer the sacraments, to preach, and to instruct the people in Christian doctrine.

V. The parish priest, being inferior, in a conflict with the Chapter regarding rights, must yield to the Chapter, unless the salvation of souls is at stake.

VI. In the cathedral church, which is also a parish church, the functions, except for the administration of the sacraments, processions, before or after Mass, belong to the Canons.

VII. The blessing of the baptismal font on Easter Vigil and Pentecost, when it is not a purely parochial function, is reserved to the Bishop, who should perform it, or have it performed by one of the more distinguished members of the Chapter, whom the Bishop designates.

VIII. Therefore, even if, hypothetically, the Bishop and Chapter are temporarily and as if in a guest capacity in a parish church, the parish priest should nevertheless strictly adhere to his rights, and the Bishop and Chap-

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ter should be allowed to exercise their functions; therefore, according to the given resolution of the Sacred Congregation, nothing should be changed.

[*Latin ed. p. 310*]

310 APPLICATION FOR ASSISTANCE. June 14, 1890. Through summary petitions. SUMMARY OF THE CASE. The family of Borg de Pares, which was once so wealthy that it was counted among the leading families of the island, and which was also known for its piety, having left numerous bequests and pious foundations to the Church, is today, as testified by the Bishop and the parish priest, in such dire poverty that it possesses almost nothing with which to live, being burdened by debts. The head of the family, named Benedict, therefore, humbly requests that an assistance of 1000 Maltese scudi, that is, 2083 livres, be granted to him from a certain endowment for masses belonging to the collegiate church of Senglea, left by his grandmother Aloysia in the year 1852, the value of which amounts to two thousand scudi, that is, 4166 livres. Asked for information and his opinion, the Ordinary responded as follows: although the petitioner may have received some assistance previously on the same endowment for masses, nevertheless, since he is greatly burdened by poverty, I cannot strongly recommend him to the Apostolic See. Furthermore, I do not wish to allow any obstacle to the granting of assistance to hinder the clergy; since the Diocese is enriched by a large number of endowments for masses. However, the Ordinary continued, in order that this pious institution may not be affected by a serious detriment or a substantial alteration, I believe that the assistance should be limited to five hundred Maltese scudi. SYNOPTIC DISCUSSION. PRAYERS ARE NOT ACCEPTED. In this matter, it is proper to note, "that once something has been dedicated to God, it is not to be..."

[*Latin ed. p. 311*]

It is desirable to transfer human resources further, as stated in rule 5 of the sixth book, with canon 4 of cause 19, question 3, and chapter 4 of "De religiosis domibus." Indeed, both the reason of divine worship and the reason of the promise and the made donation, and finally, the observance of the will of the donor, require this. Moreover, when the matter concerns legacies for Masses, which by their nature concern the aid and expiation of souls, it is universally understood that the Church, with the authority which it possesses, may, for most serious reasons, alter the wills of the founders or testators. PRAYERS MAY BE RECEIVED. However, on the contrary, there is a rule of the highest equity, which is found in chapter "Quicumque" of cause 16, question 7, which reads: "Whoever of the faithful has contributed something from their possessions to the Church for their own devotion, if it should happen that they themselves or their children receive assistance from the same Church for the support of life during the time of need." Moreover, if it is for the purpose of assisting the extreme

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poverty of the needy, according to canon 20 of cause 12, question 2, gold, chalices, and other precious items may be sold; a fortiori, something may be taken from and restored from what was formerly given by the benefactor and patron. And even more so, if the matter concerns, as in this case, the education of children and the provision of a dowry for a poor girl, which cause has always been favored by the Church with the greatest favor. It is also worth remembering the words of Saint Urban I, which are as follows: "The things of the faithful which are offered to the Lord should not be converted to any other uses than ecclesiastical ones, or for the benefit of Christian brothers or the needy; because they are the vows of the faithful, and the price of sins, and the patrimony of the poor." Finally, since the condition of this island is such that pious foundations and legacies for Masses are so abundant that, as testified by the Ordinary in this case, it is not possible to satisfy the needs in an orderly manner, it follows that, by reducing the number of Masses, no burden will be imposed on the priests to whom the right to live from the altar has been granted. With these considerations in mind, the question was raised as to how the prayers of the donor should be received.

[*Latin ed. p. 312*]

312. RESOLUTION OF MELETTANA. The Sacred Congregation of Rites, after deliberation on June 14, 1890, decided to respond. For the sake of expediency, and according to the vote of the Bishop, it was decided that the burden of the masses should be reduced to one-third, until the number of Melettan beneficedaries reaches five hundred; this was agreed upon with the Most Reverend [CONVERSANO]. PARTICIPATION. On July 12, 1890, Session 21, Chapter 6, Concerning Reform. SUMMARY OF EVENTS. In the cathedral chapter of Conversano, there were formerly 24 canons and 20 minor beneficedaries, who were called participants. Now, however, following the common misfortune affecting other churches in Italy, the chapter has only 12 canons and participants. Fortunately, as the number of canons decreased, the income of each individual increased. The reason for this was as follows: since the common mass is celebrated in that chapter, to which all canons and beneficedaries participate, the administrators of the chapter, through their skill and industry, obtained from the treasury a certain amount to be deducted from the individual canonries and from the participation in the common mass. Furthermore, since the chapter had relinquished the habitual care of souls, which was exercised through the archpriest, they made a very large assignment for this purpose, which the treasury approved, and therefore, according to the decree of the Sacred Congregation, the condition of the chapter has become even better. Meanwhile, in order to increase the number of canons, or to expedite the fulfillment of many obligations, some have been admitted to serve the church in daily office, with the right only to temporary income. These are called

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"extranumerary." Among those admitted, five of the most recent participants, whose positions were to be suppressed according to the decrees of civil authority, are now vacant.

[*Latin ed. p. 313*]

CONYERSANEN. 313 sent, the Bishop proposed, and requested of the Sacred Congregation [Consilium], that a small Mass might be celebrated from the revenues pertaining to the five benefices which have recently become vacant; and that all priests, outside of the established number, who are deemed worthy, might be admitted to participate in this Mass each year, at the discretion of the Bishop, under the following conditions: 1. That they possess small insignias of participation, but without a voice in the chapter. 2. That they bear the burden of choral duties, and be subject to assessments, relating to their revenues. 3. That they undertake the duties pertaining to the five vacant benefices, not excluding the conventual [benefice], to be fulfilled in turn among themselves, always relating to the five benefices. The chapter, having been questioned by the Sacred Congregation regarding this matter, responded: that it submitted itself to the judgment of the Fathers, while nevertheless presenting certain observations, not favorable to the Bishop's petition. However, he fully and eloquently defended these same points. A synoptic discussion: The chapter's opinion cannot be dismissed, as it is based on plausible arguments. Indeed, the five portions of the benefices, concerning which the question arises, possess a right to revenue; and although suppressed by secular authority, they still exist before the Church, and not merely in name, but in title and in reality: for the Bishop himself has successfully maintained a portion of the revenues for these benefices. But when it is a question of benefices that are vacant, it is forbidden to innovate anything concerning them, as stated in the rubric of title 9, book 3, of the Decrees: "Ne sede vacante aliquid innovetur." Furthermore, in the Bishop's proposal, contrary to what the chapter believes, is the suppression, union, and a certain new constitution of all of these benefices, so that a special Mass might be formed in favor of those who are called outside of the established number. But, truly, the suppression, division, and union of benefices are odious, and are almost considered as alienation, chapter 8, end. Concerning those things done by the Prelate, from Lucca.

[*Latin ed. p. 314*]

314 CONVERSANEN"s, Decrees, book 3, chapter 35, number 6; Reiffenstuel, commentary on title 5, book 3, number 68, with commentary. And therefore, in order that they be valid, they must be made either from a great and evident necessity or utility of the Church, chapter 33, concerning other provisions; otherwise, they are null by the very law, S. O. C., August 23, 1755, in Pallottini, 28, 33; Garcia, book 12, 2, 113; and concerning the consent

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of both the cathedral chapter and those whose rights might be harmed by suppression, division, or union, see reg. 29 jura in VI, Clement. 2 De reb. Eccl. non alien., and Clement. 1 § Ad haec De statu monach. But in this matter, the chapter entirely disagrees with the suppressions, unions, and divisions proposed by the Bishop; and this disagreement should be considered, not only because it is the cathedral chapter, but also because those concerned are also involved. Furthermore, the cathedral church of Conversano has a designated fund, in which vacant portions, unless assigned to someone by law, must revert to the common fund and benefit those who serve. Therefore, it seems reasonable for the chapter to argue that vacant portions should either be assigned according to the statutes of that church or revert to the common fund, and be distributed among the choir members according to law. However, there is another observation, with which both the Bishop and the chapter seem to agree. Indeed, the nature of a designated fund implies that as many participants as can be honestly supported from its revenues should be included. See argument, chapter Q De const. 25 De prueben., idtim. De coìte, praeb. in VI. Moreover, if the chapter's designated fund has been somewhat increased recently, it seems likely that this has occurred because prices have increased, and more money is now required for living expenses than before. Therefore, it would not be appropriate to reduce the increased designated fund to its former level. For although this might not be a serious matter for canons who claim something other than the designated fund, it would be very serious for those who receive benefits. But, on the other hand, it must be considered that in the Conversano chapter...

[*Latin ed. p. 315*]

CONVERSANEN. 315. It is known that more priests than the established number, namely eight, have for some time served the choir and the church, possessing only the right to *avventitia* (supplementary income); and their presence and service are necessary, for the cathedral church is burdened by numerous and diverse duties, which the current number of clergy cannot adequately fulfill. Moreover, justice dictates that assistance be given to them, not just to one or two, but to all, to the extent that it is possible, and that they be provided with the means of livelihood that they deserve. However, the proposal of the Bishop of *scopi* is certainly more beneficial than the decision of the chapter; for according to the chapter's decree, only five should be provided for, and that only after prior consultation and examination; whereas, according to the Bishop's plan, all those who are above the established number would receive some relief and benefit. Indeed, from this innovation that the Ordinary proposes, the suppression, union, and a certain new division of five benefices would result; but, as stated above, although this may be unpleasant, it is nevertheless accepted whenever the great benefit or necessity of the church

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demands it. This is certainly not lacking in the present case, for not only does the Bishop confirm this with his own and his predecessors' decision, but even the chapter does not dare to deny it; indeed, it openly admits that provisions should be made for those who have previously received income from the common fund, rather than from the Mass offerings, and it desires that the number of clergy serving the church be increased. It cannot be objected that five portions, or rather, the remaining portions of five portions from the common fund, are taken away, and that thereby the portions of those actually participating are diminished. Since, in the first place, the remaining portions of these five portions represent, for the most part, the stipends for Masses or daily services; therefore, the common fund does not absolutely claim them. Furthermore, since, in accordance with a pseudo-civil law, 26 portions have been suppressed: the chapter consisted of 24 canons and 20 beneficed clergy; and even if the remaining portions of five portions are taken from the common fund, there would still remain 21 other benefices.

[*Latin ed. p. 316*]

316 CONVERSATION. Furthermore, it must also be borne in mind that, as the Bishop recalls, the obligations of the chapter have been greatly reduced; and therefore, those who claim a greater share of the canonical revenues and benefices under the title of greater labor, cannot justly do so. And what the Bishop says regarding the dispensation from the law of concursus, the appointment to fill these new positions at the Bishop's discretion, and finally, the reduction of a portion of this fund in proportion to the damage, should the chapter suffer a loss in certain cases, has been so clearly presented and defended by the Bishop, that nothing further seems to need to be added. With these premises, the following question was to be considered: Whether and how a common fund should be established from the revenues of the five positions that have recently become vacant, and from the remaining revenues, for the benefit of priests, other than those serving in the cathedral church, in the aforementioned circumstances. RESOLUTION. After discussion by the Sacred Council on July 12, 1890, it was decided to respond: Affirmatively, under the present circumstances, according to the opinion of the Bishop, having reached an agreement with the Most Reverend [illegible]. INDULGENCE FOR ABSENCE. August 9, 1890. Session 25, Chapter 9, Concerning Reforms. SUMMARY OF THE CASE. The spouses Salvator and Natalitia Xuereb, in their will of March 27, 1814, established a small legacy or benefice of 37 Maltese scudi, under the following conditions: that a priest should be appointed and reside in the village of Zeitun, celebrate two Masses on the anniversary of the founders, and hear the confessions of the faithful twice a week; and if he were unable to perform this service, he should teach Christian catechesis four times a week. Recently, this benefice became vacant, and the parish priest of

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Zeitun, without any objection or acquiescence from the founders' relatives, although warned by a public edict, appointed and elected a boy of 12 years of age to possess and enjoy the benefice.

[*Latin ed. p. 317*]

MELÉVTIA x N A 317: Joseph Zarha, a cleric, a student at the seminary of Floriana in the town of Senglea, descended from the founders, and, according to testimony even from the Bishop, passively called. He immediately petitioned by letter that he might be dispensed from the obligation attached to this benefit, namely, to reside and teach catechism in the parish of Zeitun, promising in return that he would dedicate himself to the instruction of the Christian faith on any festive days in the parish church of the town of Senglea. However, since such a petition directly opposed the will of the founders, and this practice did not seem fitting, the initial response was negative.

Synopsis of the Discussion. The same difficulty always remains, as derived from the founding documents: for it is clear to all that the prescriptions of the testators and the pious wishes of the deceased must be observed with the utmost care and never violated without necessity. On the other hand, the Ordinary recommends the prayers for the requested grace, arguing that the petitioner would be burdened by a grave obligation if he were required to travel daily to a city that is far away. For, the Bishop continues, he could fulfill the same obligation fruitfully in his place of residence, where there is a greater need. However, if the grace is to be granted, the express condition of teaching catechism must be entirely renewed for the requesting cleric. Furthermore, it is added that the petitioner, a young man from Buena Esperanza, is said by the director of the seminary to be so poor that, unless assisted by a pious person, he would lack the necessities for acquiring the books needed for his studies. Finally, it should not be omitted that the Sacred Congregation for the Oriental Churches frequently grants dispensations from the obligation to attend choir and residence for the sake of studies, as is evident from the document from Ferentino, dated July 7, 1860. Therefore, C. Petra, volume 3, commentary on constitution 9 of Boniface VIII, number 11, number 13, states: "It is not improbable that a dispensation from residence for the sake of studies has been included in the body of the law, so that in our time it should rather be considered as a rule of law than as a gracious privilege."

With the foregoing in mind, the question was raised as to how the petition should be decided.

RESOLUTION. The Sacred Congregation of the Council, after discussion on August 9, 1890, decided to respond: "It is not advisable."

[*Latin ed. p. 318*]

318. Letters from the Most Holy Father, Pope Leo XIII, to the Archbishop

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of Florence, concerning the promotion of the cult of the Holy Family. — The formula for the consecration of families and the prayer to be recited daily are added. New proofs of the zeal and obedience shown to this Apostolic See have been revealed by letters received from Florence at the end of August, in which you expressed the wishes of many faithful, that the veneration of Christ the Lord, and of the Virgin Mother, and of Saint Joseph, the companions of His domestic society, under the title of the Holy Family, may be increased in the Church, and also, as is fitting in matters of such gravity, concerning faith and discipline, you have requested the judgment and decisions of this Apostolic See. We, highly valuing your diligence and prudence, immediately after receiving your petition, considered it necessary to examine it carefully, and we entrusted it to the Sacred Congregation for Sacred Rits, so that it might report to us its findings. After careful consideration, We now inform you that, for special reasons and causes, We have decreed that the pious cult of the Holy Family, without any other inductions or new forms, be preserved in that state in which it has been approved by the authority of this Apostolic See, and that Christian families should, as far as possible, have the Holy Family as a model and example for veneration, according to the statutes of that Association, which Our Predecessor, the blessed Pope Pius IX, approved and commended in his letters of January 5, 1870, and for which He hoped for certain and great fruits in its daily propagation. We place our hope in this salutary work for the good, and We are confident that all the faithful, understanding that in the veneration of the Holy Family they venerate the hidden mystery of life which Christ lived with the Virgin Mother and Saint Joseph, will derive great incentives to increase their fervor of faith and to imitate the virtues which shone so brightly in the Divine Master, in the Virgin Mother, and in His most holy Spouse. These virtues, as We have not infrequently pointed out, while they merit the reward of eternal life, also contribute greatly to the prosperity of both domestic and civil society, which is so diligently striving in this temporal life; for from families rightly constituted, also the common good of the state, of which the family is the foundation, proceeds.

[*Latin ed. p. 319*]

LETTER 319: It necessarily follows. Indeed, Our confidence grows as We consider that the Sacred Family Association, as We have said, receives grace from Christ our Lord through the merits of the Virgin Mother and of Saint Joseph, and that those who join it will undoubtedly experience divine help, so that they may lead a holy life, and that harmony, charity, tolerance in adversity, and honest conduct may flourish in their homes. Therefore, We pour forth our prayers to God, that the spirit of the aforementioned Society may remain and flourish ever more widely among the faithful, and that We have no doubt that both the sacred pastors and all ministers of the Church will contribute to its work. We have also given instructions to the

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Council entrusted with Our sacred rites, regarding the form for the blessing of homes, which We have prepared for the use of the faithful, for consecrating their homes to the Sacred Family, and also for providing examples of daily prayers for the faithful to recite in veneration of the Sacred Family. In obedience to Us, Our beloved Son, We freely declare our affection, and under the auspices of heavenly blessings, We impart the Apostolic Blessing to you, and to the clergy and faithful under your care, through Our heartfelt love in the Lord. Given in Rome, at Saint Peter's, on the twentieth day of November, in the thirteenth year of Our Pontificate. LEO PAPA XIII.

FORMULA to be recited by Christian families consecrating their homes to the Sacred Family.

O Jesus, our most beloved Redeemer, who, having been sent from heaven to illuminate the world with your doctrine and example, willed to bring a part of your mortal life into the humble house of Nazareth, subject to Mary and Joseph, and you consecrated that Family, which will be the model for all Christian families; graciously accept this our home, which is entirely and now dedicated to you. Protect and keep it, and confirm in it your holy love, together with Christian peace, harmony, and charity; may it be similar to your divine Family, and may all who dwell within it be made worthy of eternal blessedness.

[*Latin ed. p. 320*]

320 Letters. O most loving Mother of Jesus Christ, our Mother Mary, through your piety and clemency, may this our consecration to Jesus be accepted, and may He grant us His benefits and blessings. O Joseph, most holy guardian of Jesus and Mary, in all the necessities of our soul and body, help us with your prayers; so that together with you and the blessed Virgin Mary, we may eternally render praises and thanks to the divine Redeemer Jesus Christ. PRAYER to be recited daily before the image of the Holy Family. O Jesus, most loving, who, through your ineffable virtues and the examples of your domestic life, consecrated the family chosen by You on earth, mercifully look upon this our home, which, prostrate at Your feet, implores Your favor. Remember this house; for it has dedicated itself to Your special service and devotion. Be You, most benign, deliver us from dangers, attend to our needs, and grant us the grace whereby we may constantly persevere in the imitation of Your holy Family; so that, faithfully adhering to Your service and love during the time of our mortal life, we may finally be able to render eternal praises to You in heaven. O Mary, most sweet Mother, we implore your protection, certain that your divine Son will be moved by your prayers. And you also, most glorious and holy Patriarch Joseph, help us with your powerful patronage, and present our prayers to Jesus Christ through the hands of Mary. Indulgence of 300 days, to be gained once a day by those who dedicate themselves to the Holy Family, according to the formula published by the Holy Congregation of

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Rites. (POPE LEO XIII).

[*Latin ed. p. 321*]

321 FROM THE HOLY CONGREGATION OF THE COUNCIL OF INTERAMA, N. ON ABSOLUTION AND THE REMOVAL OF OBLIGATIONS, dated July 12, 1890. Session 23, chapter 18, Concerning Reforms. SUMMARY OF THE CASE. The Cardinal Ludovicus Gazzoli, with whom the ecclesiastical and lay foundations of the church of Interama were established in the year 1858, bequeathed, to the former, 90,000 livres, and to the latter, 150,000 livres. He imposed the obligation of celebrating Mass, with singing, on the eighth day after his death, and one anniversary Mass; furthermore, he imposed other obligations, and stipulated that he would pay 79 and 80 livres, which, when combined, would form a dowry for two granddaughters, and that these two granddaughters would hold chaplaincies, from which a long dispute arose between the ecclesiastical and lay foundations, concerning the goods of the Gazzoli family, and it is said that these chaplaincies still exist today, and that the ecclesiastical foundation claims to have the right to occupy them. However, the treasury prevailed, and was able to reclaim the goods, although the litigation was costly; the dowry was preserved intact. Furthermore, 14,000 livres and two parcels of land belonging to the Gazzoli family were originally seized by the Italian army, and therefore, the ecclesiastical foundation was in a better position, and he himself named it "Melior pauperisque ecclesiasticae," meaning "better for the poor and the church." However, Ludovicus Mazzocchi obtained, in the year 1865, through his marriage, an asset for the family that was greater than the debt. Therefore, several goods were seized, including...

[*Latin ed. p. 322*]

322. AGAIN. After several years, when his father died, he was obligated to distribute a portion of the inherited property, so that it might be legally divided among his eight brothers, and so that his mother, Julia Simonetti, might receive back the dowry which had been given to her in marriage. However, while doing this, (whether through error or malice, I do not know), instead of assigning a portion of the family property as the dowry, he assigned a portion of the property to the chaplaincy. And thus, his mother acquired possession of property belonging to the chaplaincy, valued at 10,678 pounds, while his brothers received property valued at approximately 14,000 pounds. Shortly thereafter, Ludovicus himself also passed away. And subsequently, his widow, Faustina Mazzocchi, because she had to incur greater expenses for the sake of the succession and the upbringing of her children, did not consider it necessary to fulfill the obligations of the chaplaincy for five or six years. In this situation, Faustina Mazzocchi appealed to the Holy See, explaining these omissions, and

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promising that she would fully fulfill the obligations in the future. At the same time, Julia Simonetti also requested that she be allowed to freely dispose of the property received from her son, which belonged to the chaplaincy. The Bishop, when consulted about the matter, expressed his opinion. A Synoptic Account: It is clear that the Bishop, in his judgment, demanded more than the two women requested in their prayers. Whatever the case, it certainly seems that Ludovicus Gazzoli acted wrongly when he distributed property, valued at approximately 25,000 pounds, which came from the chaplaincy's revenue, to his relatives. Likewise, the negligence of the widow Faustina should not be excused, by which it happened that the fulfillment of even such modest obligations was neglected for several years. Indeed, if one speaks absolutely, both the fulfillment of the obligations and the complete restitution of the dowry to the chaplaincy could certainly be achieved, and this seems necessary for both parties, as the most well-known laws demand, which order that the last wills of men, especially pious ones, be observed and protected. The same must be said regarding half of the dowry to be paid by the lay possessor of the chaplaincy. For it is most just that the obligations of the Church...

[*Latin ed. p. 323*]

AGAIN, 323. It seems most unjust that the ecclesiastical chaplaincy should be reduced in proportion to the damage and diminution of assets, while the substantial endowment established for this institution remains entirely intact. However, it must be considered that Ludovicus Gazzoli, without expense or labor to the lay chaplaincy, preserved and protected the assets; therefore, the alienation of funds for a value of approximately 25,000 pounds, carried out by the same individual through the favor of his mother and brothers, can be considered as compensation, namely, as reimbursement for litigation and redemption expenses. This is more easily accepted when one considers that, even after deducting the 25,000 pounds, the pious institution still possesses an endowment of 125,000 pounds, with which it can abundantly satisfy its obligations. Finally, the prayers, the particular circumstances of the widow and her children, and the desire of the Ordinary, namely, for the sake of piety and authority, are all in favor. Considering these matters, the question arose as to how the prayers should be granted. RESOLUTION. The Sacred Congregation of Councils, having knowledge of the matter, on July 12, 1890, decided to respond: Regarding Julia Simonetti and Faustina Mazzocchi, for the granting of grace according to their prayers, a certain number of Masses are prescribed, at the discretion and conscience of the Bishop, having spoken with the Most Reverend [Bishop of] RAGUSINA. FUNERAL. July 12, 1890. Session 22, Chapter 11, Concerning Reforms. SUMMARY OF THE FACTS. The municipality of Ragusina comprises five parishes: namely, the urban parish, the suburban parish, di Gravosa, S. Magdalena, and S.

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Ilarionis. The urban parish extends to the entire *antiquum* oppidum, constructed at the extremity of a small...

[*Latin ed. p. 324*]

324 Ragusa, situated on a promontory of Dalmatia, is bordered by the sea on one side and by walls on the other. Immediately adjacent to it lies the suburb, which surrounds it. Further to the north, where a safe harbor and a more frequented port are located, extends the parish commonly called Gravosa. The remaining areas are situated in other parts and are not directly involved in the present matter. The question at hand today concerns the parish priest of the suburb and the parish of Gravosa. To understand the situation, it must be stated that there are cemeteries within the municipality of Ragusa and its territory. Just as each of the aforementioned parishes has its own designated burial ground within its territory, so too does the parish of Gravosa possess its own burial ground within its jurisdiction. However, within the territory of the suburban parish, there are three cemeteries. The oldest, located near the sea and now obsolete because it does not comply with health regulations, is called "aile Bance." In its place, the cemetery of Saint Cross (S. Crucis) at Boninovo was erected and is now in use. A third cemetery, dedicated to Saint George (S. Georgio), is located nearby. As for which of these three burial grounds belong to which parish, and to what extent, there is no agreement between the parties. Therefore, according to the parish priest of Gravosa, the cemetery of Saint Cross at Boninovo is a municipal cemetery and belongs to the entire municipality of Ragusa, that is, to the parishes of Ragusa, the suburb, Gravosa, Saint Magdalene, and Saint Hilary. The Bishop holds the same opinion. On the contrary, the suburban parish priest notes that of the three cemeteries existing within his district, one, called Saint George, belongs to the Confraternity of Saint George, which formerly belonged to the parish of Gravosa and now belongs to the parish of the suburb of Ragusa. Regarding the other two, he states that the new cemetery of Saint Cross at Boninovo was erected in place of the old one because the latter did not comply with health regulations. And in this cemetery, residents of other parts of the municipality, as well as foreigners, can be buried if they pay the prescribed fee. Furthermore, the parish priest of Gravosa claims to have no rights in the cemeteries of the suburban parish.

[*Latin ed. p. 325*]

In Ragusa, it is demonstrated by facts that whenever the parish priest of Gravosa brings a body to be buried in the aforementioned cemeteries, he informs the suburban parish priest of this, so that the fact may be noted in his records. It should be added that the suburban parish priest performs ecclesiastical functions on the feast of the Holy Cross, the titular feast of the Church, and on the feast of All Souls. And to confirm this, he presents

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copies of three letters, by which the parish priest of Gravosa informed his brother, the suburban parish priest, that the proper funeral rites had been performed in the cemetery of the Holy Cross. It is worth noting that such copies appear to be printed, which indicates that this practice is quite common. Furthermore, the three documents presented are dated December 18, 1887, February 16, 1888, and February 22, 1888, which again indicates how frequently the deceased from the parish of Gravosa are buried in the cemetery of the Holy Cross.

It happened that, towards the end of the year 1887, a certain Valencic of Spalato died; and his father, a former magistrate of Ragusa, decided that his son's body should be buried in Ragusa, in the cemetery of the Holy Cross at Boninovo, where he himself and his ancestors had been buried. Furthermore, the suburban parish priest argued that this deceased, Valencic, was a member of his parish, because his father, formerly, while he was president of the civil court of Ragusa, resided in the suburb, and although today he resides in Spalato, he still belongs to the city of Ragusa, where he received a pension. It was also noted that the son resided elsewhere due to his profession, and that he only came to Spalato for health reasons, where he died with his father. From this, it is clear that the suburban parish priest's claim is completely unfounded, that the deceased was subject to his authority.

Meanwhile, the origin of the discord began with this fact; for the suburban parish priest, especially because the body was to be buried in his cemetery, presumed to receive and care for it. Conversely, when the ship carrying the body arrived at the port of Gravosa, the parish priest of Gravosa asserted that he had a greater right to receive and bury the body:

[*Latin ed. p. 326*]

326 RAGUSINA, therefore, it was necessary to appeal to the Ordinary. Who, on December 21, 1887, issued a decree, by which he declared that neither the parish priest of the Suburbs nor that of Gravosa had any jurisdiction over the body of Valencic. However, he maintained that the body belonged to the parish priest of the parish to which the ship, carrying the body, must appeal, and through which the funeral procession must pass. But since the ship arrives at the port of Gravosa, and the funeral procession will proceed through it, the parochial jurisdiction belongs to the parish priest of Gravosa. From canonists, it is clear that a parish priest cannot exercise his jurisdiction in another's territory, and much less conduct a funeral. It is also not helpful to object that the cemetery is located in the parish of the Suburbs, because this is common to neighboring parishes. Consequently, when the body of the deceased Valencic was brought to Gravosa, the parish priest of that place received it, and the priest who had accompanied it up to the port removed his vestments and joined the funeral association. However, it does not appear, or at least it is not stated in the records, that

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the parish priest of Gravosa performed the funeral office with Mass over the body, since it is said that he did nothing other than accompany and bury the body. After all was said and done, the parish priest of the Suburbs, feeling aggrieved in his rights, appealed to the Sacred Congregation of the Council. The Bishop, after being informed and consulted, upheld the decree he had issued, stating that it is customary that the deceased who arrive at the port of Gravosa are received and taken to the cemetery by the parish priest of that place. The parish priest of Gravosa affirmed that this has been the practice from time immemorial. In these circumstances, the case is being considered, which pertains to this one matter, namely, to whom the association and burial of the deceased Valencic should belong.

Synopsis of the Dispute: In law, it is established that the parish priest proper for funerals is that in whose district the person, while dying, has their domicile.

[*Latin ed. p. 327*]

Ragusa has 327 inhabitants, or nearly that number. Canon 3 concerning burials, in the 6th book of Canon Law, and the Roman Ritual concerning funerals, state that it pertains to the parish priest of the domicile or quasi-domicile, not only to carry the body and lead the funeral procession, but also, if the deceased is to be buried in the parish cemetery, to recite the funeral prayers over him and finally to consign him to the earth. Vecchiotti, *Institutiones Canonicae*, volume 2, book 3, chapter 5. However, if the deceased is to be buried not in the parish cemetery, but in another cemetery or family tomb, then, according to ordinary and common law, it does not pertain to the parish priest, except to remove the body and lead it to the church, as it is now called, or the funeral home, from which point the remaining duties, namely celebrating the funeral Mass and consigning the body to the tomb, belong to others, provided that the parish priest receives the customary fourth part of the funeral expenses. Vecchiotti, *I.c.*, § 60 v. Question. If the case arises, as it sometimes does, that the cemetery or family tomb is located in a distant region, this does not change the laws. But it still pertains to the parish priest of the domicile to carry the deceased, lead the funeral procession, and accompany the body to the church where the burial will take place; after which, the right and duty of burying the body belongs to others. The only difference is that, since the tomb is located in a distant region, in order that the prayers for the deceased are not unduly delayed, the parish priest of the domicile usually, at least ordinarily, performs the proper funeral rites over the body; and therefore, he first brings it to the parish church, and then, after all is completed, he associates himself with those who will bury it. This is what the statutes of the Roman clergy prescribe; this is what piety itself suggests; and this, finally, is in accordance with the very principles of law. For although the right to perform the funeral rites is connected with the right to bury the

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deceased as an accessory, the two are nevertheless distinct. *Rota decis.* 76 *cor.* Decursii § c, and therefore, given a just cause, one can be separated from the other, as Emus D'Annibale points out in his *Summa*, volume 3, § 481, following the resolution of the Sacred Congregation, dated June 16, 1827, as found in the *Acta S. S.*, volume 5, page 566. A very important, if not legal, reason for separating the funeral from the burial is the great distance of the tomb.

[*Latin ed. p. 328*]

In Ragusa, indeed, it is widely taught by canonists and jurists that the distance of a single day's journey is sufficient to completely annul and render entirely void the rights of that church to which, by law, burial would pertain (Cf. Benedict XIV, *Inst. eccl.* 105, n. 43 seq.; Donatus, *De sepult. in ord.* ad tract. IO, q. 3). Furthermore, *a fortiori*, from a greater distance, the same rights can be at least partially annulled, namely, with regard to the celebration of funeral Masses. Moreover, whenever the deceased or the deceased's family, at their own expense, arrange for the body to be buried in a distant region, it is certain that, as soon as the body to be buried arrives, the rights of the burying church are revived; the parish priest of the deceased must deliver the body to the rector of the church, to whom it is then reserved to bury the body, after preliminary blessings, Benedict XIV, note 105. This is plainly evident; however, the point on which the case hinges, and from which the greatest difficulty arises, is that the burial place of the deceased from Valencic did not exist in any particular church, nor in a cemetery specifically belonging to and attached to a single church, but in the municipal cemetery of *S. Crucis*, to which several churches have a right. Therefore, it was inevitable that questions would arise and become contentious. However, the two individuals who, as the nature of the case reveals, are contending in this matter, the suburban parish priest and the parish priest of Gravosa, present several arguments in favor of their respective positions; but not all are relevant. Therefore, in order to avoid confusion of rights, it is necessary to clearly distinguish between what is useful and what is not. And indeed, if the suburban parish priest were to claim the right to bury the body because the cemetery is located within his district, he would be mistaken. For it is a certain and established rule that municipal cemeteries are considered to be in place of the individual churches for burials, so that each church exercises the rights that it formerly had within itself, now in the respective cemeteries; and it is consistently stated, by law, that within the city walls, the deceased...

[*Latin ed. p. 329*]

In Ragusa, China, 329 bodies were prohibited from being buried, and no one had the right to bury them in the church, but only in a designated place. Vecchiotti, I, chapter 61, note; Emus D'Annibale, I, chapter 84, note;

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and the Sacred Congregation of Rites, in its decrees concerning funerals, of June 16, 1827, January 26, 1833, October 26, 1862, and in other places. Therefore, even though the cemetery of Saint Cross is located in the suburban district, the suburban parish priest cannot exclusively claim the right to bury there, but rather it is a common burial ground. Likewise, if the parish priest of Gravosa were to claim the right to funerals and burials because the body was brought to his parish and passed through it, he would be mistaken. For it is established and approved in Benedict XIV, note 105, Innocent XI, decree of 1676, cited by Ferraris, v. Parochus, % 3, n. 40, and by the Sacred Congregation of Rites in Ragusa, decrees of March 7 and July 11, 1885, that the parish priest of the deceased may enter the territory of another parish with the shroud and cross, either to carry the body out of it, or to accompany it to the church where the burial will take place, or finally to bring the corpse himself to the cemetery, without the parish priest of the place through which the funeral procession passes being able to obstruct, or demand payment, or claim jurisdiction; provided that this passage through the territory of another parish takes place without solemn pomp and with due respect, as noted by Vecchiotti, I, chapter 62, note, and by Emus d'Annibale, volume 3, § 481, note 79, at the end, according to the decrees of the Sacred Congregation of Rites of January 24, 1846, and February 24, 1872. Therefore, having set aside and clarified these points, other considerations remain which still make the matter debatable. Indeed, the suburban parish priest can first of all argue that, although the owner of the cemetery of Saint Cross is not himself, but rather the municipality, as the facts presented in this case may suggest, unless, that is, he is certainly to be considered the rector and immediate superior of the cemetery. For he is the one who celebrates the sacred functions there on the feast of Saint Cross, and he is the one who...

[*Latin ed. p. 330*]

330 RAGUSA preserves and maintains the cemetery for the deceased who are buried there. For this reason, when someone, being a stranger from any of the parishes of Ragusa, is to be buried in this cemetery, among the various parish priests, the one who seems most deserving of preference is the suburban priest, who, as rector and custodian of this cemetery, is naturally the most fitting. For while the others cannot produce any particular title to justify their preference and to claim the burial for themselves, this priest presents a plausible reason for his precedence, and therefore should prevail. Furthermore, the father of the deceased resided in the suburban parish; from which at least an indication of a presumed will and delegation in favor of the suburban priest to perform the funeral and burial seems to arise. However, on the other hand, the custom of the parish of Gravosa favors that parish, a custom about which, after the testimony of the Bishop, there is no room for doubt, and from which it is said that, whenever the

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bodies of the deceased arrive at the port of Gravosa, only the parish priest of that district is reserved the right to receive them and to take them to the burial ground. Moreover, it is customary in funerals to involve both parishes, as is evident from chapter Certificavi De sepult. and S. C. C in Fabrianen. Funeral records of March 10, 1731, and April 7, 1731, and of August 22, 1885, and January 23, 1886, and of six hundred others (1). Furthermore, a funeral procession from the port of Gravosa to the cemetery of the Holy Cross was to be held with solemn pomp, and it was indeed held. Moreover, in that case, the rights of the local parish priest must have been respected, according to the doctrine praised above; and certainly, the suburban priest could not have gone to the port of Gravosa, received the deceased, and solemnly taken him away; for he would have clearly violated the rights of another parish, contrary to what the canons prescribe. Barbosa, De off. par. page L I, 12. Benedict XIV, note 105. Finally, when the matter is less about a doubtful issue, and from the beginning—(1) This question remains, Volume XVIII, 455. Compare the note at the bottom of page 459 of the same Volume XVIII; it contains numerous citations regarding questions of funerals and parochial rights, about which the aforementioned places are cited.

[*Latin ed. p. 331*]

In RAGUSINA, where the boundaries of the parish were not precisely defined by 331 canons, the legitimate power of the Bishop was to determine the matter in the event of a dispute. When the Ordinary, with the favor of the parish priest of Gravosa, resolved the matter, the rights of the parish priest of Gravosa also appear to be strengthened by the authority of the Bishop. Therefore, having considered these matters, the following question was to be clarified: Does the association from the port of Gravosa to the cemetery of S. Crucis, and the burial of the deceased Valencic, pertain to the parish priest of Gravosa in this case?

RESOLUTION. After discussion by the Sacred Congregation of Councils on July 1, 1890, it was decided to respond affirmatively.

FROM WHICH THE FOLLOWING ARE GATHERED:

I. To the parish priest of the domicile or quasi-domicile belongs the right to carry the body and to conduct the funeral procession; and if a parishioner is to be buried in the parish church, it belongs to the same parish priest to perform the funeral prayers, and finally to consign the body to the earth.

II. However, if the deceased must be buried outside the parish, in a chosen or family burial place, then, according to ordinary and common law, only the proper parish priest has the right to remove the body and to bring it to the church for burial, receiving only one-quarter of all emoluments,

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while the church responsible for the funeral has the right to perform the funeral Mass and to consign the body to the tomb.

III. According to canon law and the opinion of experts, the rights of the church responsible for the burial are lost if the distance is such that it is beyond a single day's journey; hence, it is not surprising that, given this circumstance...

[*Latin ed. p. 332*]

332. In Ragusa, due to distance, certain practices are, to some extent, modified, particularly concerning the celebration of the funeral Mass. V. In such cases, the body must be transported not to the family's or chosen burial ground, nor to the cemetery belonging to a specific and designated Church, but to a cemetery to which several Churches have rights; and it is preferable that the parish priest, in whose parish the cemetery is located, should enjoy this right, rather than a public cemetery, over which he has no legal claim. VI. The parish priest of the deceased is permitted to enter, without excessive ceremony or ostentation, a foreign parish, with a stole and crucifix, whether to bring the body forth, or to accompany it to the Church where the burial will take place, or finally, to lead the body to the cemetery; but the parish priest of the place through which the funeral procession passes may not obstruct it, nor demand any payment. VII. When, in such a case, the body, at the request of the parents, is to be transported with solemn ceremony through the parish of Gravosa, and since nothing has been definitively established by law, the custom, favorable to the parish priest of Gravosa, must be applied, since custom in funerals is based on the common consent of both parties. MECHLIN. DECREE OF LEGITIMATION. July 12, 1890. By Summary of Petitions. SUMMARY OF FACTS. Recently, the Ordinary of Mechlin wrote as follows: "Susanna Mathildes Van "Wulven, currently residing in the diocese of Mechlin, was born in Holland in 1855, of a Catholic father and a Lutheran mother, and was baptized by a heretical minister and professed heresy." "On December 24, 1876, before the civil authorities of Ixelles, in the diocese of Mechlin, she entered into a civil marriage with Francis Giles Joseph Schmitz, born in Borussia, a Catholic man, but one entirely devoid of religious practice. Three children..."

[*Latin ed. p. 333*]

MECHLIN. Three hundred and thirty-three Catholics have been baptized and raised within this community. However, a certain F. A. I. Schmitz has fallen into insanity and is now confined in a certain asylum or house for the insane; and, according to the testimony of a physician, there is no hope of his recovery. "Today, Suzanna Mathildes Van Wulven, having been converted to a better life, has abjured heresy and, under certain conditions, has been received into the bosom of the Catholic Church through baptism."

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(1) "Although her marriage, begun before a civil magistrate, is invalid in Belgium, where heretics are not exempt from the law of Trent, she has petitioned the Supreme Congregation of the Holy Office for the validation of that marriage through a remedy at the root, and especially so that her two surviving children may be considered legitimate before the Church." "Furthermore, on December 8, 1889, the Supreme Congregation of the Holy Office replied to the Most Reverend Cardinal Goossens, Archbishop of Mechlin, with these words: 'This Holy Congregation has judged that it does not deem it expedient to grant a remedy at the root; however, concerning the legitimization of the children, since this can be obtained through a rescript from the Supreme Pontiff, the petitioner, if she so desires, may appeal to the Holy Congregation of the Council.'" "Therefore, prostrate at the feet of the Holy See, the aforementioned petitioner humbly and earnestly requests that she may be granted, through the kindness of the Apostolic See and through the Holy Congregation of the Council, a declaration of the legitimacy of her two children, namely Helenae Margaritae Palmyrae Schmitz, baptized in the church of Saint Boniface, Ixelles, on March 25, 1880; and Petri Constantii Mariae Schmitz, baptized in the church of the Blessed Virgin Mary of Tongeren, on May 11, 1884."

Synopsis of Discussion. Legitimization is commonly defined as: the act by which illegitimate children are declared to be born of a just marriage. Formerly, there were more ways of legitimizing, but now only two are recognized, namely:

(1) See the decrees of the Holy Congregation of the Inquisition concerning the repetition of Baptism, Vol. XI, 695, and Vol. XVI, 415.

[*Latin ed. p. 334*]

334. MECHLIN. Concerning the matter following marriage and the Prince's decree. In the case before us, the prior cannot have a place; because the man suffers from dementia, and by this very fact is incapable of giving a valid consent for a new marriage; and furthermore, the Most Holy Office, seeking to heal the marriage at its root, did not judge it expedient. Therefore, this means of obtaining legitimation is granted, namely, through the grace of the Most Holy. Moreover, all acknowledge that the Prince can use his supreme power to remove the stain of birth, with regard to natural children, namely, those conceived by him among those with whom a marriage can exist: for all can be recognized and legitimized, except for illegitimate children, or those born from a condemned union, according to Authority, Canon 6. If someone is free from natural impediments, chapter 6. Indeed, Oiraldi, part 1, title 17, book 4, Decretals, notes, by the authority of Benedict XIV in the constitution *Redditae Nobis*, § 39, and of Alexander III in the decree *Tanta*, under the title *Qui filii sint*, that only those born from adultery are excluded from legitimation; therefore, all others, incestuous unions not excepted, are considered capable of

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legitimation. Indeed, "and this benefit is not usually denied to illegitimate, adulterous, and incestuous children," as Heinecius states at the end of title 10, book 1, of Justinian. Indeed, in the case of Mathilde and Joseph, the marriage could perfectly well exist between them, and the children born to them cannot be said to have been conceived from a condemned union: indeed, they are legitimate before civil authority; and their mother, who recently embraced the Catholic faith, only seeks legitimation of the children before the Church, out of obedience to the faith. With the above stated, the question arises as to how the petitions should be handled. RESOLUTION. The Sacred Congregation, having knowledge of the matter on July 1, 1890, decided to respond: "Consult with the Most Holy for the granting of legitimation, according to the petitions."

[*Latin ed. p. 335*]

335 CONCERNING THE RELIEF AND REDUCTION OF DEBTS OF THE VENETIAN CHARITABLE INSTITUTIONS. June 14, 1890. A SUMMARY OF THE MATTER. By letters dated July 1, 1889, the Most Reverend Patriarch of Venice reported to the pious house, formerly abandoned but now restored, that it was incumbent upon that institution to satisfy certain debts, commonly known as "mansionary" debts, and to celebrate certain annual commemorations. However, for various reasons, the administrators of the pious house had, from that time onward, neglected the fulfillment of these obligations, sometimes more, sometimes less, and sometimes at their own discretion, and sometimes with the requested permission of the Apostolic See. Therefore, in order to address these abuses, which had become so numerous and prolonged, and to establish a definitive and stable solution, the Most Reverend Patriarch, on behalf of the Congregation of Charity, which now administers the pious refuge, requested various remissions and reductions of debts. Separately, the same Most Reverend Patriarch wrote to the Most Reverend Prefect of the Sacred Congregation of Charity, stating that, while the economic condition of the pious house was now sufficiently restored and possessed adequate assets, there were nevertheless just reasons to consider the requests. He enumerated these just reasons. However, despite these considerations, it was decided on August 29, 1888, to reply: "It is not expedient to grant what is requested, and this should be written to the Most Reverend Patriarch, who should appropriately advise the administrators to consult their consciences." Following these instructions, the Most Reverend Patriarch warned the administrators to revise their requests and to promise to restore, as far as possible, what had been neglected; but he was unable to achieve anything; indeed, the president of the Congregation of Charity again supplicated that the Sacred Congregation might favorably consider his initial petition. And the Most Reverend Patriarch

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again presented the requests of the petitioners.

[*Latin ed. p. 336*]

336. A Synopsis of the Discussions Concerning the Venetians. PRAYERS SEEM TO BE REJECTED. What primarily hinders prayers from being heard is the present state of the pious institution, which is quite prosperous, as noted by the Ordinary, Emus. For if, without a just and necessary cause, the last wills are not to be altered, according to chapter 6, session 22 of the Council of Trent; then in this matter, this just cause seems to be lacking, while the pious institution is said to be abundantly endowed and capable of gradually restoring what has been omitted. Indeed, given that such a great, continuous, and arbitrary overturning of the wills of the faithful has occurred in this institution up to now, it would seem that it is necessary to abstain from indulgences, especially since today a certain reparation is possible, and that, whether through penalties or through vindication, the restitution of omissions should be commanded. PRAYERS SEEM TO BE ACCEPTED. On the other hand, it must be considered that the number of omissions for which absolution is requested has greatly diminished, if due weight is given to the decree of September 30, 1818. Indeed, if more Masses have been celebrated than the decree of 1818 prescribed, a certain compensation has already arisen, and the anticipated settlement of debts. Furthermore, if these omissions occurred at a time when the condition of the pious institution was precarious, a just reason seems to exist to remedy what, although done at one's own discretion, was nevertheless undertaken without a solid foundation of justice at that time. It is noteworthy, and as is often repeated in these pages, that with diminished revenues, the place is also suitable for the absolution and rectification of debts. And if this principle is always and everywhere valid, it must be especially observed in this matter, namely, in the case of revenues intended for the poor and for the *solatium* [Solaize]. And after these things, I shall speak of that prudent reason which the Patriarch Emus clearly outlines, and which most strongly suggests the very benefit of the legatees, so that prayers...

[*Latin ed. p. 337*]

Let the Venetians be admitted, let what has been done up to now be rectified, and let a new order be established from the beginning. And I observe, that full satisfaction should not be demanded for past transgressions, nor should the consciences of the present administrators be burdened with them; indeed, it is also to be considered that:

1. According to the tenor of civil laws, it is impossible or very difficult for the same administrators to collect the sum required to cover the omissions made up to now, since the present administration is very different from the former, and this difference should not be attributed to the lamented omissions of the past, but to entirely different causes and circumstances.

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2. Furthermore, certain things certainly have a particular and proper application, and if, up to now, they have perhaps been subject to difficulties, these difficulties seem to be overcome.

For example, whether three canonical Masses are celebrated, as prescribed by the decree of Milesius; or whether 728 Masses are offered with a stipend of 2 for each, the result is the same; for the same number of Masses and the same retribution are involved. It is rather more appropriate that a certain number of Masses be assigned, so that the Masses of the mansionaries, or those for whom a sermon has been given, can be celebrated from all places. But since this cannot be done at will, but only in cases of necessity, it is not an excessive request; indeed, it is a request of such a nature that it has been granted before in similar circumstances.

With these points noted, it seems that the Holy See has inquired how to respond regarding the offering of Masses. The Sacred Congregation discussed the matter under the 14th session of the Council of Trent and decided to respond: "For the sake of charity, let it be so, but let the reduction and transfer of Masses be limited to ten years."

RESOLUTION.

Acta, Vol. XXIII, p. 270, 22.

[*Latin ed. p. 338*]

338. MOLEN. CONCERNING THE ABSOLUTION AND REDUCTION OF OBLIGATIONS. August 10, 1890. Summary of prayers. A certain James Quadalti, by his will dated November 19, 1804, bequeathed 1000 scudi and a certain house to the sacred patrimony, with the obligation of celebrating a daily Mass on weekdays in the church of Saint Francis, and on feast days in the church of Saint Peter in the Castrum of Bologna. The heirs and testamentary executors appointed Francis Emiliani and Dominic Mattioli, with the power to appoint successors in their right of nomination to the sacred patrimony, and to establish them as the rightful heirs with full dominion. The first to enjoy this sacred patrimony was Charles Macabini, and after him, Baptista Macabini. The founder also considered the case in which the first beneficiary should cease, and no other is found suitable for this benefit, and he wished that, in the meantime, the revenues should be received by the testamentary executors, with the obligation of celebrating the Masses in the manner prescribed. The present executors are Ennius Guidi and Reverend Joseph Emiliani. After the death in 1880 of the second beneficiary, Baptista Macabini, Ennius Guidi, adhering to the words of the testator concerning the use of the fruits in favor of the executors, and considering this disposition not to be limited to the case of the first vacancy, but to have the character of perpetuity, added the revenues of the sacred patrimony to his own, but without fulfilling the obligation of celebrating the Masses, due to serious necessities that afflict him. The petitioner, according to the Ordinary, is burdened by poverty.

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SUMMARY OF THE CASE. Disputation. The prayers of the petitioner, as a matter of duty, are to be considered, namely, that he be granted forgiveness and absolution for the fruits improperly received up to now, and for the Masses not celebrated, and that, furthermore, the Masses be reduced in the future, together with V J -

[*Latin ed. p. 339*]

IMOLEN. 339 It is desired that means be found for obtaining the remaining revenues, until the son, having reached the canonical age, can be promoted to the subdiaconate, and provided for from the sacred patrimony. Therefore, let the matters pertaining to the remission and absolution of past offenses, as well as the reduction of burdens concerning the future, be presented, concerning which the wise E.E.P.P. will determine what is to be done; with regard to the proposed prayers, it must be observed that, if the particular laws of the foundation, which are unknown to us, do not hinder this, it is possible to provide for the son of the cleric, who is twenty-eight years old, with the aforementioned benefit. For, concerning the common benefits which come from chaplaincies, the sacred patrimony, or a similar name, an age of fourteen years is sufficient, according to the Council of Trent, Session 23, chapter 6, concerning reforms; while any additional burdens, if there are any, which a cleric of fourteen years cannot bear, may be temporarily fulfilled by another, according to Fagnanus, in Chapter 1, number 65, concerning age and qualifications, etc. Therefore, the petitioner seems to be mistaken if he believes that the son's greater age should be considered in order to grant him the benefit. This would seem even more certain if, as is probable, the sacred patrimony, about which the question arises, has not yet been established as an ecclesiastical title and a canonical benefice, considering the nature of the endowment. However, since the petitioner's son is being educated in a mission seminary, and may perhaps be subject to particular obligations, it was deemed prudent for the E.E.P.P. to decide whether it would be advisable to grant him this benefice or sacred patrimony in the coming years. With these considerations, the question was raised as to how the petitioner's prayers should be addressed. RESOLUTION. The Sacred Congregation, after discussion on August 9, 1890, decided to respond: For the granting of absolution and remission concerning the past, a certain number of Masses should be imposed, at the discretion of the Bishop, with the understanding that the matter is brought to the attention of the Most Holy Father. In other respects, it does not seem advisable.

[*Latin ed. p. 340*]

340 FROM S, CONGREG. EPISC. ET REG. JANUARY. OR THE PROCEEDINGS CONCERNING THE DIVISION OF THE PARISH OF THE CONGREGATION OF MONTE CASSINO OF THE ORDER OF

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SAINT BENEDICT. In the plenary assemblies on September 29, 1889, concerning the question: Whether and how a division of the Parish of Saints Martin and Benedict can be made, and a new parish erected in the case: The following response was given by the Eminent Fathers: With the prior restoration of the things pertaining to the Church of Saint Martin, and with the valid consent of the mortgage creditors, obtained in the proper legal form, for the erection of the new parish, in order to prevent any real action from the aforementioned, affirmatively in all respects; provided that the rector of the new parish undertakes to deliver annually to the Church of Saint Martin, on the feast of its titular saint, three pounds of refined wax, as a sign of its dependence. After this decree was issued, the general procurator of the Order of Saint Benedict, although accepting the decree for the erection of the new parish, requested a further hearing, asking that the conditions imposed by the aforementioned Congregation be strictly enforced within a specified time, and that, in determining the boundaries of the new parish, due consideration be given to the ancient Church, both for the sake of equity and of its dignity. He then presented a map, distinguished by various colors, from which it was clear which part of the territory he wished to assign to the parish to be erected. However, when the Archbishop of Janua, who had been consulted regarding his opinion, strongly opposed it, and requested that the division of the boundaries be carried out according to the plan he proposed, as it was deemed to be detrimental to the greater spiritual good of the faithful, the cause was, in accordance with the order of law, submitted for consideration.

[*Latin ed. p. 341*]

JANUARY 341. A Synopsis of the Dispute. DEFENSE OF THE GENERAL PROCURATOR. The patron, chosen by the General Procurator of the Order, requests that the superiors, having considered the matter, ensure that the conditions prescribed by the Rescript of His Holiness, dated September 27th, are observed from the beginning, and that a deadline be established, within which the aforementioned conditions must be fulfilled; and finally, that the boundaries between the two churches be defined in a just manner. After this, proceeding to the conditions imposed upon the opposing party, he points out the first condition, which, according to the aforementioned Rescript, consists in the restitution of all things that belonged to the Church of St. Martin, which has not yet been fulfilled. He argues that such a condition is more in conformity with the rules of law, citing Ferraris, *Bibl. Can.*, V, divisions 24 and 25. Furthermore, the sum to be restituted, which pertains to various titles of the Church of St. Martin, amounts to 14, 306. 83. And to prevent any inconveniences that might arise if the aforementioned sum were given to the administrators of the fabric of St. Martin, he requests that it be entrusted to a person of faith, designated by the Holy Congregation. This is all the more necessary because, once

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the dismemberment of the new parish is completed, the old fabric can no longer exist. Regarding the second condition imposed upon the opposing party by the aforementioned Rescript, namely, that they obtain the consent of the mortgage creditors in a legally valid form for the erection of the new parish, in order to prevent any real action from them; the patron asserts that its fulfillment is still lacking. And this is not due to the fault of the opposing party, but because the creditors are reluctant to relinquish their rights. Therefore, to the best of his ability, he requests that, in the event that the resolution of September 27th remains firm, the fulfillment of this condition be demanded by the Holy Congregation, before the decreed dismemberment takes place. Finally, in order to ensure fairness in the new demarcation of the parishes, he endeavors to point out certain errors that the Archbishop has committed.

[*Latin ed. p. 342*]

342. Concerning the situation of the Church of Saint Martin and the difficulty of access, as well as the petition of the parishioners, he instituted an inquiry, which he calls a pretext and foreign to the truth. And this can be inferred from the fact that more than three thousand parishioners, and almost all the associations of the town, presented petitions to the Most Holy Prince, requesting that they not be separated from the ancient parish of Saint Martin. After these matters were examined, and two schemes for the new division were proposed from different sides, he observes that the entire parish of Saint Martin consists of two parts, of which one, besides the roughness of the roads, has a scattered population, sparsely populated, and burdened by poverty; the other, besides the easy and wide roads, has a narrow territory situated between the sea and the torrent of Varenna, where the population is very numerous; indeed, with the exception of one-fifth, the rest of the parishioners live there. Therefore, he adds, if the new division were to be made according to the model presented, only 1077 parishioners would be assigned to the ancient parish of Saint Martin, who, for the most part, are poor, being laborers or engaged in agriculture. The new parish, on the other hand, would be assigned 3934 parishioners, among whom are found several families, both distinguished by nobility and by wealth. And that this is contrary to equity and justice, no one can deny. Furthermore, he observes that it is impossible for one pastor to fulfill all the parochial duties, especially to provide assistance to the sick and dying. Therefore, it often happens that the sick die without the assistance of a pastor or anyone else, because the pastor cannot, due to the lack of necessary income or emoluments, appoint a vicar to assist him. Having considered these and other matters, the petitioner concludes, requesting that provision be made for the preservation and dignity of the ancient parish of Saint Martin, to which, on November 6, 1844, Pope Gregory XVI granted perpetual existence and dominion, both over the attached properties, as well as over

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the churches or parishes that depended on it.

[*Latin ed. p. 343*]

JANUARY 343. DEFENSE OF THE ARCHBISHOP. It is true that, on the part of the Archbishop, it was observed that the appeal interposed has a suspensive effect on the execution of the law, as stated in canon 7 of title 1 of the Code of Canon Law concerning dismissal proceedings. Nothing new should be introduced with the appeal interposed, and to the most beloved sons, concerning appeals. – However, the execution of the sentence should not proceed while the appeal is interposed; which is confirmed in title 16, book 2 of the Decrees, where it is prescribed: "That nothing new be introduced while the litigation is pending." Therefore, since, according to what has been stated, the decree of September 27, 1889, could not be executed due to the action of the adversaries who interposed an appeal; the Archbishop cannot understand how complaints are raised against him, if the conditions imposed by the Holy Congregation in favor of the parish of Saint Martin still remain suspended. However, having said this, the Archbishop affirms that the heirs of Borgo have obtained permission from the civil court to remove the mortgage inscription on the new church; and that everything is in readiness to proceed, according to the intention of the Holy Congregation, to the execution of the conditions. As for the sum to be restored to the parish of Saint Martin, the Archbishop, with certain observations and exceptions to what has been stated, maintains that the aforementioned sum does not amount to 14,306.83, as the opposing side contends; but rather reaches 8,000, or at most 8,188.93, with the relative interest. And he adds that it would be more beneficial to the parish of Saint Martin if this sum were not paid to the fabric of the church, which is subject to the vigilance of the government, but rather were deposited in the ecclesiastical fund of the diocese, to be invested in favor of the parish of Saint Martin, with the obligation imposed on the pastor for the time being, that the proceeds from such a sum be used for the benefit of his parish. Finally, with regard to the boundary question, the aforementioned theoretical considerations are relevant, namely that a division is usually granted only when utility or necessity requires it; and that, provided that the division is appropriate for the parish, an annual canon must be paid in recognition of its matriculation, with regard to the boundaries in question.

[*Latin ed. p. 344*]

344. Regarding the assignment of parishes, the Archbishop maintained that this matter should be referred to the prudent judgment of the Archbishop himself, based on reason, since no one else, except the Ordinary, can know what will most benefit the faithful of his diocese. And this, he stated, is the constant practice of the Holy See, as can be seen in the documents concerning Séez, regarding the division of the parish and the erection of a

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new one on August 8, 1885, where, concerning the question of whether and how the Bishop of Séez should be granted the faculty to ordain priests for the parishes of Argentan, and for the erection of a new parish dedicated to Saint Martin, the response was: "Affirmatively, in both cases." To this was added the document concerning the division of the parish and the erection of a new one on June 15, 1889, in which, concerning the question of whether and how to approve the petitions for the division of the parish church of Saint Martin of Asio and the erection of new parishes, the Holy See considered it appropriate to respond: "Affirmatively, according to the prudent judgment of the Bishop, provided that due provision is made for the suitable and appropriate resources for each parish to be erected." With all of this clarified, the following question was put forward: Whether and how the Decree of September 27, 1889, in this matter, should be confirmed or revoked. The Sacred Congregation of Bishops and Regular Canons, after carefully considering all matters in plenary sessions on March 14, 1890, considered it appropriate to respond as follows: Regarding the boundaries of each parish, according to the model proposed by the Archbishop and in accordance with his intentions: I. That the villages of Durazzo, Pallavicini, and Doria, although having an entrance into the new parish, should belong to the parish of Saint Martin. II. That, with regard to the restitution of property belonging to the Church of Saint Martin, it should be understood that the sum of 8000 livres, with its related income, from the date it is established, has not been received by the Church of Saint Martin, nor also the sum of 2503 livres and 57 sous.

[*Latin ed. p. 345*]

JANUARY 345, III. Concerning the aforementioned points, it must be deposited in the diocesan treasury, and invested by the Reverend and Most Reverend Archbishop, in favor of the parish of Saint Martin, to whose pastor the relative fruits shall be returned: and furthermore. From which, the following may be gathered: I. An appeal interposed after a judgment suspends the execution of that judgment. II. The division of parishes, according to the teaching of the Holy Canons, should take place when utility or necessity demands it. III. Provided, however, that the dignity of the parish to be divided is not diminished, and the canonical fee assigned by the new parish, as a sign of its belonging, must be paid. IV. In divisions, the determination of boundaries should be left to the prudent judgment of the Bishop, for he, above all others, knows what is most conducive to the good of souls. ROME, PENSION MATTER. On August 22, 1890. In the month of July of the year 1888, the priest G. Tombolini, Vice-parish priest of Saint Nicholas, while in prison in the city, having presented a petition to the Holy Congregation of Bishops and Regular Canons, stated that he had learned, during the election of the new Archpriest of that church, that in the founding documents of the Archpriestate, an annual pension of 20

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scudi was established in favor of the Vice-parish priest for the time being of that church, which he, after fourteen years of service rendered in that church, had never received. He further stated that, upon learning of this, he had made some efforts to persuade the Parish Priest, Centi, to pay the past sums, but his efforts had been in vain. After prayers for information and a vote were delegated to the Reverend Vicar of the city on July 3, under the date of January 14, 1889, the Reverend... SUMMARY OF THE MATTER.

[*Latin ed. p. 346*]

346 Rome reports that, based on the statements provided by the Parish Priest of Cento, this can be argued; namely, that in the Bull, by which the parish of St. Nicholas was granted to him, there does not exist a clause concerning a pension, nor is mention made of it in the founding Bull: that the parish priest, or the parish, would have relinquished, or exerted every effort, to abolish the pension, whenever it was found to be imposed in the aforementioned founding Bull. This aforementioned pension, given what has transpired, was imposed as a supplement to the Vice-Parish assignment, since the latter was exceedingly meager; and it has become more substantial, indeed, more substantial than the assignments given to other Vice-Parishes in the City; and therefore, it was removed by the founding Bulls. With these things stated, the Eminent Vicar retains the just right to favor the Parish Priest of Cento over the Vice-Parish Priest, especially for this reason, because the burdens and emoluments of the benefice are to be determined by the Bull by which the benefice is conferred, and because, after a three-year period of peaceful possession of the benefice, the status is not easily changed. With these things in mind, the Holy Congregation judged it advisable to write to the Eminent Cardinal Vicar, so that he might strive to settle the matter in a just and equitable manner, before the cause was presented for discussion in the plenary assembly of the Eminent Fathers. The Eminent Vicar indeed endeavored to follow the instructions of the Holy Congregation, but in vain. Hence, the Holy Congregation decreed that the question should be settled through legal proceedings. A concise summary: The pension of twenty scudi annually imposed in favor of the Vice-Parish Priest is not to be doubted, as the words of the founding Bull state: "Moreover, the daily distributions and other uncertain expenses do not exceed one hundred and eighty gold ducats from the treasury, according to common estimation, which is an annual value, upon which, as you also assert, the burden of paying twenty old Roman scudi annually for the time being is imposed on the Vice-Parish..."

[*Latin ed. p. 347*]

ROMANA 347, it is found that the parish priest of the Collegiate Church has been granted authority by apostolic mandate. Having considered these facts, and concerning the matter of law, the Clergy was granted authority to

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respond to the question: whether a pension, not paid for a long time, is considered extinct. They respond concerning the pension, dissenting opinions 15, paragraphs 17 and 18: "It is an unshakeable rule of law, which is admitted by jurists, canonists, and theologians, that thirty years are required for the prescription of annual payments; and then the entire annual debt, or the entire annual payment, is not considered extinct, but only the sum of one year, so that for the other twenty-nine years there is always a place for a petition, as affirmed by Antonellus de tempore legali, book 2, chapter 68, paragraph 75, where he cites decisions of the Rota, from which he concludes that, although the pension has not been requested for thirty years, it is not declared extinct, but can always be requested by the pensioner for twenty-nine years. This is what Gigas states in de pensionibus, question 83, paragraphs 9 and 10, adding two other reasons; namely, that a pension is compared to an annual usufruct and to sustenance; and in these, the prescription of non-payment for thirty years does not prejudice anything. Therefore, it follows from question 83 that a pension not paid for thirty years will not be prescribed, except for the first installment, from whose due date thirty years have elapsed. This doctrine of Gigas, which the Rota has adopted on several occasions, is also followed by Cardinal De Luca in de pensionibus, discussion 67, paragraph 6, who writes: 'The answer was easy, because the silence was either related to prescription, and that did not apply, since we are dealing with a conditional annual debt, in which it is accepted that even a three-year prescription is not sufficient unless for the annual installments that have elapsed.' Therefore, if the words of the Bull granted in favor of the existence of the pension to the Vice-parish priest do not allow for any doubt; if, on the contrary, prescription cannot be invoked in any way, also because the Vice-parish priest requested the sums not paid from the year 1874 to the year 1886; it is clear that the Archpriest is obligated to pay the aforementioned sums claimed by the Vice-parish priest as a pension.

[*Latin ed. p. 348*]

348 In ROMA, can the Archpriest be excused from fulfilling this obligation, given that in the charter granting the parish, no mention is made of the aforementioned pension? Whereas, on the contrary, it has been considered that such an obligation is included under the general clause expressed in the charter itself, namely: "with all rights and obligations attached." RIGHTS OF THE ARCHPRIEST. On the other hand, with regard to the Archpriest, it has been observed, according to the doctrine transmitted by the clergy and confirmed in many places by the Sacred Roman Rota, that pensions which have not been collected for a certain period of time are subject to prescription. Indeed, the Most Holy Auditorium, in decision 591, number 9, before Buratto, teaches that the nullity or extinction of a pension should be presumed if it has not been collected for at least five years. Fur-

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thermore, in part 16 of the recent decrees, and in decision 266, number 22, before Priolo, it is stated that a pension should be considered extinct if it has never been paid for ten years. Voet, in his *Commentaries* on book 33, sections *de usu et usufructu*, number 4, *in fine*, has the following to say on this matter: "Clearly, if for an immeasurable time no annual payment has been made, it is easier to consider the entire annual payment obligation as extinguished; just as it is possible that an obligation to pay an annual sum can be prescribed after thirty years or a third of a century, if someone summoned to pay the sum refuses to pay and denies being indebted for the sum, and from that time the aforementioned period of years has elapsed." In the present case, since we are dealing with a pension that has not been paid from the year 1874 to the year 1885, but rather from a time long past, and which is not recorded in the records of the Sacred Registry, perhaps, as the Reverend Vicar observes, because the Vice-parish was supported from another source; it is clear that the Archpriest is not obligated to pay the disputed pension. These matters briefly considered, the following point must be resolved.

[*Latin ed. p. 349*]

349. ROMA. A question arises concerning whether and how the Archpriest of St. Nicholas is held in confinement, and whether the annual pension of 20 scudi should be paid to the Vice-parish priest of the same church for the 14 years during which he held that office. RESOLUTION. The Holy Congregation of Bishops and Regular Canons, after deliberation on August 22, 1890, decided as follows: Negatively, and furthermore. FROM WHICH THE FOLLOWING ARE DEDUCED: I. Annual payments are subject to prescription if they have not been paid for a certain period of time. II. To prescribe them, it is not necessary for an indefinite period, or thirty years, or three centuries to have elapsed; but, according to the teaching of the Holy Rota, a period of ten or even five years is sufficient. III. Such a prescription is even more readily admitted when the Vice-parish priest has been sufficiently provided for from other sources, and when no mention of a pension obligation is found in the bulls of the parish collation. FROM 3. CONGREGATION OF INDULGENCES. Concerning the necessities for the valid erection of Stations of the Way of the Cross. August 9, 1890. The Bishop of Constantiensis and Abrincensis, of the province of Rothomagus in Gallia, humbly presented the following to the Holy Congregation of Indulgences: "Since in Apamiensis, on September 25, 1871, in Decree Authent S. C. Indulgentiarum, published in Ratisbon, no. 294, the following provision is read: 'Concerning the erection of Stations of the Way of the Cross, after having previously obtained from the Apostolic See the necessary and suitable faculties, all and each thing pertaining to the erection must be done

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in writing, as well as the request itself,'..."

[*Latin ed. p. 350*]

350 FROM THE SACRED CONGREGATION OF INDULGENCES: "Regarding the erection of stations [of the Way of the Cross], a concession is granted, and the instrument [of that concession] shall remain in the records of the Bishopric, and at least a testimony thereof shall be placed in the parish registers or in the place where the aforementioned stations have been erected." Hence, the following questions are raised: I. Must the request for the erection [of stations] be made in writing under penalty of nullity? II. Must the concession granted by the Bishop, who obtained authorization from the Apostolic See to erect stations of the Way of the Cross, also be made in writing under penalty of nullity? III. Must the concession itself mention the authority obtained from the Apostolic See to erect stations of the Way of the Cross, under penalty of nullity? IV. Finally, must the testimony of the erection be inserted in the records of the Bishopric or in the parish registers or in the place where the stations of the Way of the Cross have been erected, under the same penalty of nullity? Furthermore, the Sacred Congregation, after considering the questions proposed, judged that the following answers should be given: To I. No; cf. the Decree under number 175 (1). To II. Yes; cf. the Decree under number 445 (2). To III. It is fitting to mention it, but it is not necessary. To IV. It is prescribed that the testimony of the erection be inserted in the records of the Bishopric and in the parish registers or in the place, etc., where the stations of the Way of the Cross have been erected, but not under penalty of nullity; cf. the Decree under number 294. Rome, from the secretariat of the same Sacred Congregation, on August 6, 1890.

(1) The cited decree states: "Since various rules have been issued by the Sacred Congregation of Indulgences and Sacred Relics, under the date of April 3, 1731, by a brief of His Holiness Clement XII of January 16 of the same year, and under the date of May 10, 1742, by a brief of Our Lord, of August 30, 1741, to explain various doubts regarding the manner of erecting the stations which are called the Ways of the Cross, or Calvary, and since controversies have arisen not once, but repeatedly, before the same Sacred Congregation, regarding the validity or nullity of the erection of such stations, depending on the obtaining of a license or consent, as clearly stated in the aforementioned briefs: the same Sacred Congregation, in order to eliminate any difficulties in the future in this matter, on July 30, 1748, decided to prescribe that, in the erection of such stations in the future, both the deputation of the priest who is erecting them and the consent of the local superior, as well as the respective Ordinary, or Bishop, and the parish priest, and also the deputation, consent, and license, as the case may be, of the superiors of the church, monastery, hospital, and pious place where such an erection takes place, must be given in writing and not otherwise,

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and must be exhibited whenever it is necessary, under the penalty of the nullity of the erection itself, which is incurred by such action." Regarding the matters mentioned above, a report was made by the undersigned, Pro-Secretary of the same Sacred Congregation, to His Holiness on August 3 of the same year, and His Holiness benignly approved the opinion of the Sacred Congregation.

(2) The decree, of which we are speaking, was reported in Volume XII, page 116.

[*Latin ed. p. 351*]

351 FROM THE HOLY CONGREGATION FOR RITES, DECREE concerning the beatification and canonization of the venerable Servant of God, Bartholomew Mary Dal Monte, priest and founder of the pious society of missions. CONCERNING THE DOUBT: Whether a Commission should be appointed and, if so, for the purpose of introducing the cause of the aforementioned Servant of God? Bartholomew Mary Dal Monte, a priest of Bologna, was a most devoted and indefatigable preacher of the divine word. With the most ardent charity, he dedicated himself to saving souls for Christ, undertaking numerous sacred expeditions to various cities and towns in Italy, sparing himself no hardship or danger in his labors; and in all his sacred ministry, he persevered with an ineffable zeal. And God, who grants many graces to those who preach the Gospel, through this faithful servant, brought back to the Church almost countless souls who had strayed from the path of penance and Christian life. Furthermore, the same Servant of God founded a society of priests, imbued with his spirit, who diligently labored in the sacred work of missions. Finally, weakened by age, he peacefully departed this life on the vigil of the Nativity of the Lord, in the year 1778, leaving behind a renowned reputation for sanctity. This reputation for sanctity, along with heavenly graces and miracles, which were said to be obtained through the intercession of this servant, did not diminish after his death, but rather increased throughout the years, so that an investigation concerning these matters was ordered by ordinary authority in the ecclesiastical court of Bologna. After this investigation was completed and presented to the Sacred Congregation for Rites, the Most Holy Pope Leo XIII graciously permitted that the doubt concerning the appointment of a Commission for the introduction of the cause of the aforementioned Servant of God be considered in the ordinary meetings of the Sacred Congregation itself, without the intervention or vote of the Consultors, although less than ten years had elapsed since the presentation of the informative process.

[*Latin ed. p. 352*]

352 From the acts of the Sacred Congregation of Rites, neither of those documents pertaining to the aforementioned Servant of God have yet been

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sought out and examined. Hence, the Most Reverend and Right Reverend Cardinal Lucidus Maria Parocchi, Bishop of Albano, relator of this cause, at the urgent request of the Most Reverend Peter Crostarosa, Urban Antistite of the same cause, and with attentive letters from several Most Reverend and Right Reverend Cardinals, Most Reverend prelates, and other men of both ecclesiastical and civil distinction, in a regular meeting of the Congregation of Sacred Rites held at Vatican, proposed the following question for discussion: Whether the commission for the introduction of the cause should be signed in this case, and for the purpose of what is being considered? And the aforementioned Sacred Congregation, having carefully considered all matters, and having heard the voice and writings of the Reverend Father Augustine Caprara, promoter of the Holy Faith, decided to respond: Affirmative, that is, the commission should be signed, if it pleases the Most Holy [Father]. On December 17, 1889. Having faithfully reported all of the above to the Most Holy Lord Pope Leo XIII, His Holiness, approving the written response of the Sacred Congregation, signed with his own hand the commission for the introduction of the cause of the aforementioned Servant of God, Bartholomew Maria Dal Monte. On January 22, 1890. C. CARD. ALOISI-MASELLA, Prefect of the S.R.C. L. h& S. VINCENTIUS NUSSI, Secretary of the S.R.C.

INFORMATION: Synopsis of the life of the Servant of God. In Bologna, Horatio Maria Dal Monte and Anna Maria Bassani brought their first child into the light of day, a son of God, on the eve of the Ides of November, in the year 1726. It was fitting that the parents, both in their virtues and in their piety, should have been blessed with a child on that very day. The child was baptized in the parish church of San Pietro, and was given the names Bartholomew, Charles, Mary, and Melchior. It is said that the parents considered this to be a miraculous event; for, besides the fact that the parents were already advanced in age,

[*Latin ed. p. 353*]

INSTRUCTION 353: The mother had never before conceived a child, but at the proper time, she conceived. However, when she felt herself to be with child, in order that all might go well, she offered many prayers to God, both day and night, and she also humbly implored the help of the heavenly patrons. She devoutly invoked Saint Francis de Paula, to whose vow she was bound, and, with her intercession, she happily bore Bartholomew, a child of good health and vigor. The memory of this great benefit remained deeply imprinted on her mind, so that, from the time of his birth, she wore the habit of Saint Francis, which she had worn before. Moreover, due to the excellent virtues which were evident in the boy from his earliest years, all were able to judge what he would become; and their expectations were not disappointed. Indeed, he was a young man of pleasing appearance and innocent demeanor; so devoted to truth that, even in the face of danger of

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death, he would never utter a falsehood. He was obedient to his parents, and exceedingly inclined to piety; for, although a child, he was constantly engaged in prayer, which he often prolonged late into the night, even during the severity of winter. Although he was sometimes afflicted by illness, he nevertheless diligently observed all the vigils prescribed by the Church; and, because of his excessive zeal, his mother approached his spiritual directors, so that they might moderate his austerity. When he began to suffer from pains in his chest and to vomit blood, his mother feared that he might suffer a more serious detriment to his health. However, the delicacy and innate goodness of his character, combined with his great intelligence, led his parents to take great care of him. Above all, his parents were concerned to instill in the boy's soul the seeds of all virtues, and the love of the Lord, who is the beginning of all true wisdom. They spared no effort, nor any labor, to ensure that he was thoroughly instructed in the precepts of Christianity. They entrusted him to the best teachers, under whose care it is difficult to say how much he progressed. After having mastered the first rudiments of grammar, he applied himself to the humanities and philosophical disciplines, and, having quickly mastered these, his father, who foresaw great things for him, destined him for commerce, and dedicated him to the study of letters in the vast expanse of the sea. But a different path was shown to Bartholomew by God. For God was already calling the young man to the sacred military order, so that, serving according to the most wise counsels of divine Providence, he might spread the glory of God far and wide; and Bartholomew, with the greatest willingness, obeyed the divine will. (Quo de Acta, Tom. XXIII, fase. CCLXX, 23)

[*Latin ed. p. 354*]

354 The time that he had free from studies was devoted to prayer, to exercises of piety, and to other similar practices. He frequented the house of the Fathers of the Oratory, where the boys were instructed in sacred matters and in the memorization of texts. As the years passed, the desire to enter the ecclesiastical state grew stronger in Bartholomew. This desire, moreover, was perceived by Father Leonardo, who, with gentle words, confirmed him in his vocation and foretold that he would become a Missionary. Therefore, the young man resolved not only to remain faithful to the sacred vocation, but also to pursue his purpose with greater zeal. At the same time, his father, to whom this only son was everything, heard of this intention of becoming a servant of God, and, although grieved, he yielded, and even used various means to try to dissuade him, hoping to make him change his mind and follow the path that he himself had already prepared for him. First of all, he forbade Bartholomew to speak with the parish priest of Rome, Zanise. But the servant of God, knowing that it is wrong to obey men when their commands are contrary to the divine will, begged his father to allow him to go to the priest. When the father refused, the servant of God insisted

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again that his son be taken to Ferrara, so that the call to the ecclesiastical state might be more easily recognized. Meanwhile, the servant of God, with a serene spirit, recognized that it was more pleasing to God to go to Ferrara, and, together with his father, went to the church, commonly called "delle Muratelle," where he spent two days in spiritual exercises. After these exercises, he again presented his intention to his father, who, becoming even more angry, did not cease to reproach him, and even struck him with his hands. Then, joining Bartholomew's vocation with his former tutor, he dismissed the latter and entrusted the boy's education to Canon Garofali, a priest of renowned virtue. After a few days, the father, seeing Bartholomew, vehemently rebuked him for daring to resist the will of God; but the latter, finally recognizing the truth, although with a heavy heart, consented that Bartholomew should dedicate himself to the ecclesiastical ministry. Having entered the clerical life in the year 1745, he diligently and zealously devoted himself to all the exercises and works of piety that were proper to his new life. He especially loved prayer, fasting, chastity, and study. He attended the sacred schools and the religious sodalities, which were held on feast days.

[*Latin ed. p. 355*]

355. He instructed and edified the people through catecheses and dialogues. Endowed with the priesthood, he diligently applied himself to theological disciplines, and having completed his studies, he received the doctorate, but he understood that he was no longer his own, and therefore, from the very beginning of his life and until his death, he devoted himself to the service of God and his neighbor, so that he might love only the salvation of his neighbors. He was mild and gracious to all, and he often spent entire days and nights receiving confessions. His charity towards his neighbor grew daily, and he was eager to proclaim the word of God to the people; therefore, he read and summarized the sacred Scriptures, the works of the holy Fathers, and the canons of the councils, and he applied them to his own circumstances, so that he might have material suitable for any discourse. Moreover, his memory, which was exceedingly sharp, ensured that he retained with the utmost fidelity everything he heard in sacred sermons. Although he had, from that time onward, devoted a large part of his days to the duties of the priesthood, traveling, performing missions, and giving Lenten sermons, he nevertheless published no work among so many and such apostolic duties. Nor should we omit the pious exercises he practiced, of which he left manuscripts, which are highly praised. Truly golden is that little book which he wrote for clerics aspiring to the higher orders, entitled "Admonitions for Those to be Ordained." To this he added a compendium of ceremonies, which must be observed in the sacred rites. He also wrote a practical instruction for the proper manner of performing Confession and Communion. But the work that deserves to be commended

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in the highest terms is that which bears the title "Jesus in the Heart of the Secular and Regular Priest." It happened that in the year 1730, by the Most Reverend Dom. Julio Cesare Canali, a man of outstanding sanctity of life, who was the parish priest of the church of St. Isaiah, it was decreed that two parishes in the diocese of Bologna, which were in greater need of spiritual assistance, should be served by some priests who would instruct the people in the Christian precepts. In the year 1750, the Servant of God was chosen for this task, and with companions, marked by zeal and piety, he began to diligently serve and evangelize those parishes. From this point on, we must mention the long labors which he undertook in performing sacred missions, which he continued until his death. Furthermore, it is incredible how much the Servant of God labored, so that he might bear good fruit and eradicate sin.

[*Latin ed. p. 356*]

356 'He was an *INFORMATOR*, converting souls. No method of labor was foreign to him, nor was any rest granted him from his works; wherever he was sent, he readily responded, fearing nothing, not even untimely hours, the summer heat, the harshness of the journey, or other inconveniences of travel. Moreover, the fruit of his missions was immense, and countless conversions of sinners are unanimously testified to. Such abundant spiritual benefits, having been spread everywhere, prompted the Bishops to urge him with their petitions, eagerly desiring that his work and ministry be extended to their dioceses. It could not be otherwise; for, everything that could be desired for the instruction of the most excellent and holy preacher was found in him. To this was added the grace divinely bestowed, by which the hearts of men were drawn to God. It is impossible to recount all the places that he traversed during the more than twenty-five years of his apostolic journeys: he was, in fact, sent to almost all the provinces of Italy. And since the fruits that followed his missions were so numerous, it was the common desire of the faithful to have him return again and again. On the occasion of the universal Jubilee proclaimed by the aforementioned Pope, the Cardinal Vicar of Rome, Marcus Antonius Colonna, summoned him to Rome, and entrusted him with a mission in the Forum Agonali. Such was the frequency of the citizens of all orders, and such a commotion of spirits was created, that, with the eyes of the listeners overflowing with great tears, an almost unbelievable fruit was gathered from his sermons by all. He left a monument to this apostolic zeal. For when he saw that his earthly inheritance was dwindling, he decided to devote all his wealth, for the good of souls, to which he looked alone, and he established the Piarist Missionary Work, which is now named after him. He set himself a twofold goal. Firstly, it concerned the conversion of all sinners and the salvation of souls in every region or diocese, as far as possible. Secondly, he greatly desired that the diocese of Benevento would never lack apostolic men. But

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how prudent this work was, it is sufficient to consult the clauses of his will. However, it will not be amiss to note that the divine Goodness certainly blessed this Work founded by Dal Monte: for even today, one can see the abundant fruits derived from it for the good of the Italian dioceses. This is certainly a sign that the same spirit of the Founder still perseveres integrally in the members and in the directors.

[*Latin ed. p. 357*]

INFORMATION 357. This and other things have brought great joy to many! He reached the age of 52. This was the end of Bartholomew's labors and earthly journey. Having been seized by a fever, after long and grievous sufferings, which he bore with the greatest patience, this frail life, worn out by pious labors, was exchanged for eternal happiness, adorned with all virtues. He died on the eve of the Nativity of Our Lord, in Bologna, in the year 1778. Scarcely had his death been made known when all lamented, proclaiming that a saint had been taken from among the living. The following day, his body had to be transferred to the church of Saint Michael the Archangel, due to the great throng of people. His remains, for four days after being exposed, retained their color and flexibility, as if he were still alive, until, after the funeral ceremonies, they were buried in the commemorative chapel, near the altar of the Holy Cross and of the Blessed Virgin, under the title of the Apostles. These were preserved until the year 1808; in that year, however, they were transferred to the most celebrated Basilica of Saint Peter, and placed near the altar of the Blessed Virgin of Peace. The fame of his sanctity and miracles, which flourished during his life, did not diminish, but rather increased, after his death, spreading more and more widely, especially since many marvels of his intercession with God were reported, concerning which a sermon will soon be instituted.

ON VIRTUES IN GENERAL. On Heroic Faith. When we are about to speak of the theological and cardinal virtues that shone forth in the Servant of God, we begin with the theological virtues, because they are prior in order, as the blessed Thomas teaches (2-2, question 23, article 6). Among these, Faith holds the foremost place, which the Council of Trent rightly called "the beginning of human salvation, the foundation and root of all justification, without which it is impossible to please God and to attain to communion with His children" (Session V, chapter 8). Saint Peter Damian defined it as "the origin of virtues, the foundation of good works, and the beginning of all human salvation" (Opp. Tom. 3, opus 1, de fide, page 385). Indeed, anyone who carefully and diligently examines the records will acknowledge that undeniable and praiseworthy virtues are evident in the life of the Servant of God. From his very youth, he devoted himself only to pious societies, conducting himself with such dignity that it seemed as

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if he were their moderator.

[*Latin ed. p. 358*]

358 INSTRUCTION: In order that the truths of the faith, and whatever might pertain to the Catholic Religion, might be learned. And not only did he firmly believe what he himself said, but he also strove to teach these same mysteries of the faith to others, and his chief concern was that Christian instruction be imparted to children. Living with the fervor of faith that he had conceived in his heart, he devoted all his efforts to the eternal salvation of his neighbors, and he never sought anything else from God, except that the souls of sinners might be brought to Christ. For this purpose, he despised riches, pleasures, and the vanities of the world, so that he might lead a life of labor and all kinds of privations as a missionary. Indeed, he was prepared to face death for the sake of the faith, as is evident from the words, sighs, and intentions of others, who, whenever he spoke of Asia, observed that he gazed upon that most distant region with the most ardent desire, wishing to preach the Gospel there and to bring the people to embrace the faith of Christ. From this desire, it is clear that a heroic argument for the faith is to be sought, as the Cardinal de La Rue teaches, saying: "Although it may not happen that the circumstances of life present an opportunity for such a thing, yet a firm preparation and disposition to undertake it, if the opportunity arose, is sufficient to demonstrate heroic faith." In 3 sentences, disp. 32 de vir. heroie. Art. 9 n. 231. Inflamed by this desire, the Servant of God requested from the Secretariats of the Congregation for the Propagation of the Faith that he be sent to the infidels. But another thought was in that man's mind. Therefore, the Servant of God, moderating his observations, and considering his weak health, worn out by apostolic labors, and the difficulty of the journey, which he might not be able to overcome, yielded, as it were, to a divine oracle, to the voice of the Secretariats of the Congregation for the Propagation of the Faith, which dissuaded him from his preconceived purpose; and instead, he devoted the time of his life to the spiritual benefit of Italy. Truly, his ardent zeal for the propagation of the religion and the salvation of souls was by no means diminished; for it was the cause for which this soldier of Christ encouraged other priests to continue their work among the infidels, and to illuminate them with the light of the Gospel. But it was not necessary for him to go beyond the borders of Italy in order to defend the truths of the Catholic faith, since he had the widest field for exercising his ardent zeal for the spiritual benefit of the Italians. It is not easy to say how many...

[*Latin ed. p. 359*]

INFORMATION 359: The towns, cities, and provinces that he visited for preaching, the number of impious sins that he eradicated, and the number of souls that he confirmed in the faith. In the minds of the dissenters,

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filled with all discord, the word of God, spoken by the Servant of God, had the greatest power to reunite them. For many examples could be brought forth concerning this. His entire life was a constant preaching, and in the sermons that he delivered about God, he himself, inflamed with holy piety, moved all the listeners. Furthermore, he strove with the greatest diligence to enlighten the minds of the faithful regarding all virtues and to kindle faith in their hearts, so that they might demonstrate that faith through their actions, which they professed with their words. For this reason, he never omitted a sermon on the faith, carefully prepared, in his missions and Lenten sermons. Moreover, he was greatly distressed whenever he perceived, either directly or indirectly, that the integrity of the faith was being attacked by enemies; nor did he ever cease to use his industry to rescue those infected with the poison of error from the hands of the unfaithful; and he repeatedly exhorted learned and ecclesiastical men, with whom he was bound by a bond of friendship, to fight for the faith. But when dealing with the Jews or heretics, he did not use a harsh style, but rather with solid arguments, so that he might gently, yet firmly, persuade them to embrace the faith and the truth. Indeed, Rosignali teaches that a most excellent example of faith can be drawn from the office of a missionary and preacher: "Another external act of faith is to transmit the faith to others." *De act. vir. lib. I, c. XIII.* Moreover, Benedict XIV writes, that the heroic faith of some of the Servants of God should be praised, "because they have shown long, outstanding, and laborious care in transmitting the Christian doctrine and in instructing those who are new in the faith." *Lib. III, c. XXIII, n. 9.* It is clear that the Servant of God possessed these qualities from what has been said thus far. But, because it is wise to also look to the future, the Servant of God intended not only the good of the present, but also the good of the future, and with great prudence and diligence, he established the Society of the Pia Opera Missionum [Pious Missionary Works]. And indeed, he was driven to undertake this arduous task by the fervor of his faith, as can be gathered from a letter that he wrote to a certain saint. Indeed, these are heroic examples of faith; but further indications are still apparent in the Acts, from which one can gather much more.

[*Latin ed. p. 360*]

360 A more illuminating demonstration of the faith can be made. For, "the greatest sign of faith is constant and fervent prayer, for he who believes most in God also believes that He can and will hear him," as Cardinal de Laurea states in his *Sententiae*, Volume 2, Disputation 32, Article 9, number 195. Therefore, from his earliest years, Bartholomew devoted all his strength to this sacred practice. Even when traveling, he spent time in meditation and prayer. What shall I say of his profound veneration for the Holy Eucharist, in which is contained the true Body and Blood of Christ? He was accustomed to attend the Holy Mass at least once a week; after

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becoming a priest, he attended daily. Indeed, from this pious and frequent reception of the sacraments, a certain argument for the faith can be inferred, according to the words of St. Matthew: "He who partakes of the sacraments of Penance and the Eucharist, even if he does so not as often as prescribed by law, but with the greatest devotion, is, I say, endowed with a truly heroic faith." *Praet. Theol.,* canon. lib. 2, c. 2, n. 1 et 17. It is also worth noting how diligently he strove to ensure that the highest honors were given to this sacrament. Indeed, he not only rebuked boys and altar servers who did not bend their knees before the procession of the Blessed Sacrament, but even in the last days of the missions, he made every effort to bring the Sacred Body of Christ to the sick, and he urged everyone to accompany it with due reverence and order, with candles lit. Such devotion clearly signified a heartfelt love. He was certainly not able to separate his profound devotion to the Holy Eucharist from the deep piety with which he venerated the Divine Virgin. He always held her in the highest regard, with fervent love; he urged everyone to seek refuge in Mary, and he strove to kindle devotion to her in the hearts of men. Furthermore, to hinder, with all his might, those who would inflict injuries upon God, is a clear and undeniable sign of divine love, as St. Augustine states: "He who sees any evil being committed, corrects it with righteous zeal; if he cannot, he endures it and laments." St. Augustine, *Tractate* 10 on John. However, the criterion for our judgment is this: we are speaking of the zealous activity of this servant of God, who, regarding the Divine Mother, worked very hard to protect her honor from the injuries of ungodly men. But indeed, the heroism of this virtue shines forth, and also demonstrates...

[*Latin ed. p. 361*]

INFORMATION 361 concerning the observance of the commandments of God and the Church, for "he who believes in God, attends to His commandments" (Eccles. 32:28). Hence, Saint Gregory says: "True faith is that which, in what it says, does not contradict in its actions, etc. Therefore, we truly believe when we complete with works what we promise with words" (Homily 28 on the Gospel). Finally, in order that a full and conclusive demonstration of heroic faith may be had, the silence regarding the unjust obedience with which he venerated the Church and its supreme Pastor is overlooked. For, shortly before his death, while a most bitter war was being waged against the legitimate authority of the Church by enemies of the holy religion, those who were associated with him were persecuted, so that all who were affected might be brought to the enemies of the truth, that errors might be refuted and the corruptions of the time be confuted. For this very reason, he sent a letter to the most learned man, Stephen Borgia, Cardinal of the Holy Roman Church, in which he implored him to bring the full force of his intellect against the enemies of the Mother Church. Moreover, since he was endowed with such extraordinary faith, he revered the Roman Pon-

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tiff as the dispenser of Indulgences, which were exploited by greedy men. Indeed, all the signs and arguments by which heroic faith is demonstrated, we find in our blessed servant of God, what prevents us from admitting that this virtue pre-eminently shone forth in him? Concerning the heroic hope. It is not without reason that the hope of our blessed servant of God was also extraordinary, because these two virtues are so closely intertwined that one must be the companion of the other, as Saint Augustine teaches, when he writes: "It is necessary that in him who has faith, there be hope for what God promises" (Sermon 53 on the words of Matthew, chapter 5, verse 10, number 11). Furthermore, no one denies that the acts of this virtue are both formal and virtual. These two categories provide ample and solid material for our consideration. Since the primary and principal object of hope consists in eternal blessedness, which we expect as the reward of all good deeds, Bartholomew, from his tender youth until the very end of his life, directed all his thoughts, words, and actions, and never sought any human reward for the labors he undertook in the service of the apostles, remembering that admonition: "Trust in the Lord, and do good, and dwell in the land, and thou shalt be fed with its riches." (Ps 36:3). This is evident from the Acts. The formal acts of hope also include...

[*Latin ed. p. 362*]

362 REGARDING the interrupted prayers; indeed, they contribute exceedingly to the demonstration of heroic hope, because no one, however wise, could endure for a long time in prayer, unless he fostered, at least in his spirit, the hope that God would grant him the good he seeks. Therefore, it is certain that hope was a sign in the Servant of God. By performing the exercises, it was observed that he sought to secure for himself a prominent place among earthly goods, which constituted the most evident argument of heroic hope, especially if one considers that the Servant of God, having received so many divine graces, was able to open to himself the path to the highest degrees of sanctity.

But, more diligently and expeditiously striving for eternal happiness, which was his sole aim, he despised all worldly things to which men are usually attached, and overcame all the difficulties that were presented to him so that he might persevere in his holy endeavors; nay, he even bore with equanimity the vexations of his father, which, by deterring him from the divine service, sought to drive him away. The cheerfulness of his countenance and the perfect conformity to divine will were evident in the Servant of God, as he patiently endured the pains that he suffered, which were often sharp, and also in the labors, injuries, and insults that he endured, always maintaining a steadfast and cheerful spirit. Therefore, it is not to be doubted that the Servant of God was endowed with heroic hope; for Isaiah says, "In patience and hope shall be your strength," Isaiah 30, lo, and the Apostle says: "We glory in hopes of the glory of the sons of God;

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and not only so, but we also glory in tribulations; knowing that tribulation worketh patience, and patience experience, and experience hope; and hope confoundeth not," Romans 5, 2-4. In this regard, Augustine exclaims: "Oh, hope! You make all things sweet and pleasant." *Serm. 15 ad frat. in Erem.*

Animated by this hope, he undertook the arduous and weighty task of the apostolic life; so that neither the numerous labors of the missions, nor the precipitous mountains, nor the inconveniences of cold, heat, rain, and falls, could hinder the ardor of his zeal. Having persevered with firm hope, aiming to attain the heavenly inheritance, and not considering the human comforts of this life, it must be said that he, so devoted to his divine motives even in his labors, presented a new argument of his heroic hope. This is confirmed by the words of the Auditors.

[*Latin ed. p. 363*]

INFORMATION 363. Catherine de Ricci, Part 3, Title on Hope: "Unless she had been strengthened by the heavenly life, she would never have disdained the earth, nor would she have persevered in the labors and trials of life, unless she had believed that God would certainly offer her a reward." Also to be mentioned is that firm and inflexible constancy with which, even as a young girl, she accustomed herself to frugality in food, and then to other penances and flagellations, so that the flesh might not rise up against the spirit. A man who is attracted only by earthly pleasures hates and avoids all pain; but if he willingly encounters it, and embraces it with joy, it is because he sees the prospect of eternal happiness, to which one can only arrive through many tribulations. As she was so lively and zealous, she knew how to pour forth the sentiments of her heart into the hearts of others. Indeed, in her sermons, she wonderfully stirred up the souls of all to hope. She urged all to the worship of God, to the observance of His commandments, and to implore the patronage of the Mother of God. What more can be said? She dispelled the doubts and anxieties of those with troubled hearts, she comforted sinners, and she converted those obstinate in their sins, so that, raised up by the divine mercy and the hope of blessed immortality, they might confess their sins to God. Therefore, it seems that nothing more is needed to demonstrate the heroism of this virtue. Let us speak now of charity. Charity is placed last among the theological virtues, because it follows faith and hope; yet, it surpasses all other virtues in excellence and dignity, because Christian perfection is bound to charity, as St. Thomas teaches: "Indeed, and essentially, the perfection of the Christian life consists in charity, primarily indeed according to God, secondarily however according to the love of one's neighbor." 22 Questions, 184, article 3, in the body. As we have spoken before in this title, what is the principal sign of charity? We are warned by the Divine Teacher Himself: "He who has My commandments and keeps them, he is the one who loves Me" (John 14:21). The witness testified to the observance of the divine

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commandments, saying: "I have kept the evangelical counsels, so that I may suffer any harm, even the slightest, rather than offend God; and I have avoided lies, even those that are jesting, so as to keep my conscience pure." Therefore, even as a child, she looked only to heavenly things, and, in order to be more free to devote herself to God, she—

[*Latin ed. p. 364*]

364 INFORMATIO, preferring sacred solitude to worldly amusements, having abandoned those temporal pursuits with which he had previously been involved, devoted himself entirely to divine service. Freed from secular affairs, he exercised himself diligently in the contemplation of heavenly things; for he spent many hours, both day and night, in prayer to God. But, as John Chrysostom teaches, "great love is a great sign" (Hom. 26, cap. XI). John Climacus agrees, stating: "Frequent prayer is a familiar conversation and a union of man with God." Furthermore, although the Servant of God pursued all mysteries with the most profound faith and a singular affection, he nevertheless manifested the sentiments of devoted will towards the patient Lord. From this, he endeavored to kindle the living fire of charity in the hearts of others. Indeed, in the sermons which he delivered on the Passion of the Lord, he so moved the hearts of the faithful that he obtained many conversions from sin. Moreover, he demonstrated the most excellent signs of charity towards the most Holy Sacrament of the Eucharist, which, as St. Augustine rightly teaches, is "the bond of charity." And who can recount the sweetest conversations with which he delighted, or the fervent prayers with which he approached the most loving Lord? With such an affection for charity, he was so eager from his very youth to instill his devotion in the hearts of others. Indeed, from the heroic devotion that is revealed in the daily celebration of the Mass by a Servant of God, a most noble sign of charity is derived, as St. Matthew rightly teaches, saying: "The fourth sign of heroic charity is the daily celebration of Mass, and the frequent reception of the Sacrament of the Eucharist, since the proper effect of the Sacrament is the conversion of man to Christ" (Matthew, De Canonis, Sanet. p. 2, cap. 15, n. 72). For, although many other things could be adduced as evidence of the heroic charity of the Servant of God towards God, it is also evident that his actions stemmed from a zeal that sought to overthrow the dominion of sin and to impel all men to love God with their whole heart. But, as Ambrose teaches, "zeal is charity" (St. Ambrose, Psalm 118), and St. Thomas taught: "Zeal, whatever it may be, proceeds from the intention of love" (St. Thomas, 1, 2, Quest. 28, art. 4).

[*Latin ed. p. 365*]

INFORMATION 365. Therefore, Augustine exhorted the Christians in this way: "Even you have been appointed to serve Christ by living a virtuous life, by practicing charity, by teaching and preaching His doctrine

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to those who can, so that each one may admonish, instruct, encourage, and show kindness to others for Christ, and may exercise discipline; thus fulfilling his office in his home, in the Church, and in a certain sense, episcopally, serving Christ, so that he may be with Him eternally." St. Augustine, Tractate 51 on John. Indeed, did not Bartholomew follow Augustine's admonition to the letter, dedicating himself entirely to the glory of God and the spread of the Gospel? So inflamed was he by divine love that he longed to eradicate the errors of the unbelievers, as we have seen, in order to convert them and to further the Kingdom of God; he did not hesitate to shed his blood for this purpose. Therefore, he willingly endured labors, hardships, and persecutions for the love of God. From all of this, it must be concluded that St. Bartholomew's charity towards God was so great that it was extraordinary and reached the pinnacle of heroism. Concerning heroic charity towards one's neighbor. If Bartholomew exhibited such extraordinary charity towards God, as has been thoroughly demonstrated, then certainly he could not have neglected the commandment to love one's neighbor. For he who loves God must also love his brother. As the wise man teaches: "No one loves his neighbor unless he loves God; and if he does not love God, he does not love his neighbor." Epistle to Hyeron. And St. John says: "If you do not love your brother whom you see, how can you love God whom you do not see?" Epistle, Chapter 1, verse 4. Therefore, in order that the full extent of God's servant's charity, which moved him to love God, may be apparent, the tender and ardent love with which he regarded those who were like himself must be shown. But since this kind of love encompasses a double action, as it regards either the soul or the body, it is necessary to speak first of its spiritual works. He, having become all things to all men, as the Apostle teaches, dedicated his entire life and all his strength to benefiting others; indeed, always attentive and with all his strength, he sought to enrich souls for Christ. Nor should we pass over in silence his tireless diligence in receiving confessions. Often, he fasted and, in every way...

[*Latin ed. p. 366*]

366. INFORMATION: For entire days and nights, he sat in the sacred expiatory chapel, where, with a spirit of charity, he prayed. But above all, his exceptional charity shone forth towards the uneducated and those lacking all refinement, whom he received with exquisite kindness and the greatest mercy. With such profound knowledge, all sought his counsel, even those of the highest rank, and all experienced his extraordinary charity. Certainly, no greater benefit can be conferred upon men than to free them from the grievous faults that hinder them, and to restore them to the grace and friendship of God. Indeed, all the labors of the Most Reverend Father were directed towards this end. Hence, as we have seen many times, in order to achieve the goal he had set for himself, he was not deterred by the

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harshness of the places, the inconveniences of travel, nor the severity of the weather; rather, he was never weary in his labors, nor ever discouraged in spirit, but, whatever the circumstances, he readily set out, so that he might assist those in spiritual need. And truly, I could not better explain the fervor of his zeal for the salvation of souls than by recounting the austerities he endured, in order to soften the hardened, and to bring them back to the path of Christian life. This very fact, which we have been discussing, is a testament to the truth of that saying of Dionysius the Areopagite: "Of all divine things, the most divine is to cooperate with God in the conversion of the erring, and in the bringing of sinners back to Him." *Celestial Hierarchy*, Book 3. Indeed, Bartholomew reconciled many sinners to God. For certainly, many discordances were removed, hatreds extinguished, lusts suppressed, the sacraments were used more frequently, and good habits were instilled. It could not have been otherwise; for, besides the certain hidden power that shone forth from his words, which moved the hearts of all, he diligently sought to know what were the greatest sins or scandals that prevailed in the places where missions were to be held, so that he might more effectively combat them. And he did not preach in secret, but also publicly, in the most open places; he acted so effectively that many, after hearing his sermons, went to the confessional to expiate their sins. He brought many women, who had entered the path of perdition, back to Christ; for them, he expended all his care, so that, having begun the journey of a good life, they might persevere with constancy. Moreover, his greatest concern was for all men.

[*Latin ed. p. 367*]

INFORMATION 367 concerned those whom he had once recalled to a better life, and he persevered in every task and office with constancy and piety. The expenses incurred in the first part of this title were devoted to works of corporal charity, by which he attended to the needs of the poor, and his prayer seemed to spontaneously turn in this direction. He was most devoted to the poor, and even in his declining years, he would often give them money, which he provided as a support for them; and as a priest, whatever he received in sermons was given to the poor. What shall I say about the countless number of poor people to whom he provided assistance? Here speak those many poor people to whom he so generously provided help. Indeed, this extraordinary charity manifested itself in the declining years of God's Servant to the extent that he would deprive himself of food in order to relieve the hunger of others. And although he was so ardent in charity towards his neighbor, he certainly had to turn his attention to the sick, whom he frequently visited in hospitals, and to whom he provided every kind of assistance. But the charity of God's Servant shone forth even more brightly in his forgetting the injuries done to him, and in his loving his enemies, to whom he repaid evil with benefits. This kind of

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action, as rightly observed by Gregory the Great, "is true charity, when the friend is loved for the sake of God, and the enemy is loved for the sake of God. For he loves those whom he loves for the sake of God, and he also loves those whom he does not love, knowing that he must love them. For charity often overcomes the hatred of adversity." Hom. 38 in Evang. And having summarized all that has been discussed so far, it must be concluded that God's Servant exercised himself in so many and such weighty works of charity that he was never weakened by laborious toil, nor was he ever deterred from his duties by the multitude of labors, but throughout the course of his life, he looked only to the benefit and salvation of his neighbors, whom he loved fervently in Christ.

ON THE CARDINAL VIRTUES

On heroic prudence. What we have discussed so far easily paves the way for demonstrating the cardinal virtues, which also excelled in the same degree of heroism in God's Servant. Indeed, among them, Prudence comes first, which, as the moderator and principle of all the other virtues, directs human actions towards the supernatural end. And concerning this, he wisely teaches...

[*Latin ed. p. 368*]

368. The blessed Thomas: "He proposes prudence as the end and the means necessary" 2. 2. question 66, article 3. This prudence earned praise for Bartholomew, who, having spent his life working, considered nothing more important than eternal blessedness and the salvation of souls. Indeed, he showed signs of extraordinary prudence from the very beginning of his life; therefore, we saw him entirely devoted to piety, and using all means by which he could attain the eternal end. He avoided everything that might offend God, even in the slightest degree, and he cleansed it with constant prayer, and he devoted his time to studies and various works of piety. Since the choice of state, from which the greatest eternal happiness depends, must especially be guided by prudence, the Servant of God did not embrace the ecclesiastical state until, after long prayers, in which he proved his vocation, and after seeking the advice of approved counselors and holy men. These things pertain to that part of prudence which is called monastic, and which concerns one's own good. However, the prudence for which the Servant of God is praised is that which is directed to increasing the glory of God and to providing for the salvation of others, for which he devoted all his soul and all his strength. And because he was so instructed in prudence, he also appeared most prudent in giving counsel. Hence, all who were oppressed by misfortunes, or tormented by the stings of conscience, departed from him filled with heavenly joy. However, the greatest witness to his prudence is found in the number of bishops and

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other men of distinction who sought his counsel in difficult matters, which was always adapted to the particular circumstances. Nevertheless, nothing seems to contribute more to strengthening the reputation of the Servant of God's prudence than the institution of the "Pious Works of the Missions." Although endowed with a lively mind and profound learning, he nevertheless sought the advice of outstanding men in order to proceed more safely in so important a matter. He did not put his hand to this work until he had first implored heavenly help; and in order to obtain this more easily, he commended it even to the prayers of others. It is difficult to express how much he endeavored to ensure that the institution was established firmly and stably. Given these things, I do not think anyone can doubt that the Servant of God was outstanding in prudence, so that he attained the praise of heroic virtue in this regard.

[*Latin ed. p. 369*]

SECTION 369 Concerning heroic justice and other related virtues. It is certainly known to no one that Justice, the most noble of virtues, if taken in its broadest and most comprehensive sense, encompasses all virtues. Thus, St. John Chrysostom states: "The just man embraces all virtues; for by this name, we are accustomed to call those who practice every virtue." Homily 23. Indeed, in the sacred Scriptures, men distinguished by holiness are designated by the name of the just, with this very meaning. There is no doubt that the Servant of God observed the general precepts of justice: for, by the unanimous testimony of witnesses, it is clear that he observed the divine and ecclesiastical laws with great care, to which he added the diligent performance of his office. If we now turn to the more specific aspects of justice, which, guided by the Angelic Doctor, are commonly called by the theologians, then religion comes first, which renders due worship to God, as the first of all things and the principle of all. From this comes the hatred of sin, and the diligence in observing the laws; from this, the practice of prayer, and the greatest devotion to the most holy Sacrament of the Eucharist, as we have seen in his life and in his works. It was especially important to him that the feast days be properly observed. Furthermore, it is evident how great was the affection with which he venerated the Most Blessed Virgin Mary, after God. This most tender devotion to the Mother of God is not only testified to by the daily and constant prayers offered to her, but also by the great zeal with which he sought to stir up in the hearts of others devotion, reverence, and veneration for her in all his sermons. But this devotion to the Most Blessed Virgin is ultimately directed to the greatest glory of God: for, as St. Lawrence Justinian states, commending this devotion above all others, he says: "Therefore, let us proclaim the honor of this Virgin in our confession, and let us sing praises to our God with the lyre: Let us venerate Him in His Mother, and let us honor the Mother in His Son: Let us render our vows faithfully to both." Sermon on the Nativity

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of the Virgin Mary, page 672, line C. Following religion is piety, which is "a certain expression of charity, which one has for parents and country," as stated by Benedict XIV, book 3, chapter 24, paragraph 18. But who can doubt the charity he had for his country? It is evident from what has been written in the section on charity towards one's neighbor, and it is clear that he never considered anything more important than the true good of his country. As for... (The passage is incomplete).

[*Latin ed. p. 370*]

370 Concerning matters of justice, he was most eager to observe them, and he never left the house without first kissing the hands of the elderly, and having received their blessing. This heroic justice also consisted in the sincerity with which the Servant of God always acted, and he detested nothing more than hypocrisy and falsehood. Nor are there other arguments lacking by which his justice can be confirmed. For he took no thought of his own interests, and even if he could have gained something by it, he was most diligent in fulfilling his obligations fairly. These things indeed most clearly demonstrate that the Servant of God fulfilled not only the duties of justice, but also those of generosity. Now, if Bartholomew loved and served God above all things, and if he followed the example of the Virgin Mary in his devotion; if he showed reverence to his parents and other relatives; if he harmed no one, but rather repaid good for evil; if he diligently cared for the spiritual well-being of his neighbors, and did not disdain to spend whole days and nights in the confessional, where he received not only those who were acceptable, but all, regardless of their condition, with the same kindness and affability; then it is fitting to assert that he fulfilled all the rules of justice, as S. Bernard puts it: "Justice is to fear God, to venerate religion, to honor parents, to love one's country, to be useful to all, to harm no one, to maintain the bonds of fraternal charity, to undertake the dangers of others, to help the poor, to repay good for good, and to observe equity in judgments." *Lib. de Ord. vitae coenob.*, cap. 10, letter A. In order that the demonstration of justice, in which the Servant of God excelled, may be fully understood, certain practices of the devoted are worthy of mention. The virtue of chastity was loved by the Servant of God, so that he diligently used all the means that contribute most to the preservation of purity. Nor did he neglect any of the aids suitable for maintaining the purity of chastity, but rather he kept watch over himself with the greatest vigilance. Indeed, he disciplined his body with fasts and vigils for many years, but he declared war on all those things that could even slightly cloud purity, and he removed all such temptations from himself. But the most splendid monument of the purity of the Servant of God is...

[*Latin ed. p. 371*]

INFORMATION 37: He used words that revealed the deepest senti-

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ments, urging others to strive for that virtue. In Aurea, his counsel was highly esteemed. And although he vehemently preached against impurity, he spoke with such prudence that, while exciting horror at that most grievous vice, he offended no one among his listeners. Moreover, knowing that all vices spring from idleness, he not only diligently exercised his own body, but also urged others never to indulge in idleness, and, especially in those cities where he held authority, he fostered and promoted studies, congregations, and other exercises. Obedience, which St. Augustine calls "in a certain way, the mother and guardian of all virtues" (De Civ. Dei, Book 14, Chapter 12), flourished in him. This virtue, which had taken deep root in the soul of the Servant of God from his youth, continued to grow with age. For, understanding that after receiving the clerical state, he was no longer free to do as he pleased, he depended on the permission of his superiors in everything. Therefore, Marcus Antonius Colonna, Cardinal Vicar of Rome, left a most remarkable testimony regarding the perfect obedience of Bartholomew, having celebrated Mass with him himself. And not content with his own obedience, he also added exhortations, urging others to cultivate this virtue. From all these things, and others that are read here in summary, it is rightly gathered that the virtue of obedience guided the Servant of God, which, as St. Bernard teaches, "knows no law, and is not confined by limits, nor is it content with the narrowness of profession, but with a wider will, it extends to the height of charity, and freely... extends to that which is joined to it" (De Praecept. et Dispen., Chapter 9, beginning). Wonderful also was the love of poverty, which, along with the other virtues, reached the highest degree of heroism, and truly deserves to be called voluntary. Although he was born into a noble and wealthy family, and could have enjoyed all the delights and comforts that are available in civil society, he renounced them all; nor did he turn away from wealth, nor did he hope for riches, but considered that a treasure more precious was found in poverty and good works. For the apostolic labors, which he undertook with great zeal for the good of souls, he refused to receive stipends, and he constantly refused even the smallest offerings for the celebration of Masses.

[*Latin ed. p. 372*]

372 Possessed by the spirit of poverty, he resided in the most humble dwelling, furnished with the barest necessities, and whatever he might possess beyond what was strictly necessary, he generously distributed to the poor. What more need be said? He guarded the evangelical poverty with the utmost care, so that after his death, nothing of money was found with him. In food, too, he practiced poverty; and what shall I say of his attire? With St. Bernard's warning before his eyes – "The poor, but not filthy" – he wore a tunic of coarse, and indeed, somewhat worn cloth, but always clean and fitting for his priestly dignity. Therefore, as the Seraphic Rule states,

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he also served poverty with the greatest diligence, which "led him among the living, to whom, clinging entirely, he wished to have nothing under heaven but the name of our Lord Jesus Christ," Chapter 6, On Heroic Fortitude. St. Augustine defines fortitude as "the acceptance of dangers and the endurance of evils," Book 85, Question 3. And St. Ambrose says: "Fortitude is concerned with the soul in two ways: first, with regard to the exterior and the body, for the smallest things; secondly, so that it pursues with steadfast intention all those things which are truly excellent and honorable," Book 1, On Duty. From this, we can distinguish two aspects of this virtue: to undertake and endure difficult things, says St. Thomas, 2nd Part, Question 123, Article 6. After those things which have been written about faith and charity towards one's neighbor, it is clearly evident that the Most Reverend Father, with tireless and steadfast spirit, endured many hardships in order to promote the glory of God and the salvation of souls; and therefore, nothing more is desired or seen than that his fortitude be demonstrated. However, in order that the heroism of this virtue may appear more clearly, some things must be added. He undertook the most arduous task, embracing the mission. He was not ignorant of the dangers that lay ahead, but nothing could deter his courageous spirit, nor could anything hold him back; for he magnificently overcame all the inconveniences of arduous journeys. But, "the principal act of fortitude, as the most learned Angelic Doctor teaches, is to endure, that is, to remain steadfast in the midst of dangers, rather than to attack," for, as the same Thomas adds shortly afterward, "to endure is more difficult than to attack, in three ways. First, because he who endures sees that someone stronger is attacking him; but he who attacks attacks as someone much stronger. But it is more difficult to fight with a stronger person than with a weaker one!" 2nd Part, Question CXXIII, Article 1. Now, who can...

[*Latin ed. p. 373*]

INFORMATION 373: What trials and adversities did the Servant of God endure in the exercise of his apostolic ministry, during which he persevered for twenty-seven years, and in which he never faltered? From this unwavering firmness of spirit arose that constancy which he constantly displayed amidst persecutions, contradictions, and even threats, to which he resisted like a valiant soldier. Marvelously, the fortitude of the Servant of God shone forth, as he bore insults and other affronts with equanimity, and yet rebuked those who inflicted injuries upon him. However, he exhibited the noblest example of heroic patience in the most grievous and prolonged infirmity, which he endured in Vienna with the greatest serenity and composure, without a single complaint, as if no affliction afflicted him; indeed, he even converted the very illness into a festive and joyful occasion. For, as St. Matthew says in the Preface, title 2, chapter 3, section 3, number 28: "If one endures and tolerates with joy, and not with complaint or murmuring,

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severe pains, prolonged illnesses, and long-lasting torments, with the special protection of God, this is a sign of heroic patience"; and we must praise the Servant of God for this, whose spirit was never broken by sadness, and who never allowed the purpose of constant patience to be moved.

Regarding heroic temperance: We have already seen above how the virtue of temperance shone forth in a remarkable way in the Servant of God; therefore, it is fitting to add a few more words about this virtue, so that a fuller demonstration of it may be made. From a young age, the Servant of God accustomed his innocent flesh to fasts and mortifications, lest he should be tempted by the spirit of concupiscence. As he grew older, his love for abstinence also increased. Moreover, when the time approached in which he would embrace the life of a Missionary, he took it upon himself to afflict his body with greater penance. But, as St. Matthew rightly notes, "abstinence refers not so much to the quantity of superfluous food, but to the quality, the care, and the preciousness and pleasantness thereof."

[*Latin ed. p. 374*]

374 INFORMATION: concerning preparation; consisting of simple food and drink, sufficient only for the sustenance of life. Furthermore, we have seen that Saint Bartholomew was so frugal in his food that he refused the more delicate dishes that were offered to him, even by his own father, constantly rejecting them. He always abhorred exquisite food, preferring the most common and simple fare. He was truly remarkable in his frugality, consuming each day only as much food as was barely sufficient to sustain his nature and to satisfy his needs; and if, at times, he had to dine with nobles and wealthy men, he industriously abstained from food, so that his moderation would be evident to all. All of these things most clearly demonstrate heroic temperance, as was noted by the Auditors of Rota in relation to the cause. Louis Bertrand: indeed, "Louis Bertrand, in his work *De Temperantia*, mentions that he took only a portion of the food served on the tables, which was barely sufficient for the sustenance of a man; and he maintained this practice even while engaged in the work of preaching." Benedict XIV, *Lib. 3, cap. 28, no. 17. Truly, if the help of God were not present in His Servant, it could not be conceived how he was able to endure the constant labors of his missions, especially since he was not endowed with a strong constitution of body. But, although the Servant of God felt his apostolic labors weaken his physical strength, he nevertheless always wished to observe all the ecclesiastical fasts. He did not only afflict his body with this one type of suffering, but he also subjected it to many other various mortifications, remembering the words of Saint Paul, in which he commends temperance to the Galatians, and exhorts them to Christian chastisement of the flesh: "Walk in the Spirit, and you shall not fulfill the lusts of the flesh. For the flesh lusteth against the spirit; and the spirit against the flesh:

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these are contrary to one another, that you may not do the things which you will." (Epistle to the Galatians, chapter 5, verse 16). From this, he would often suffer pain and discomfort in his bed, and, bearing the punishments for the sins of others in his own body, he would publicly flagellate himself with iron chains. Moreover, the most intense struggle that he waged against the temptations of the flesh from his early years is clearly demonstrated by the drops of blood that were sometimes seen on his tunic. Therefore, it is fitting to say of Saint Bartholomew what Scaccfus notes.

[*Latin ed. p. 375*]

INFORMATION 37th sign of sanctity: namely, "for sanctity approves only those who, having flourished through the chastisement of the flesh and the mortification of the senses, are venerated by the Church, not only by Martyrs." Section 5, chapter 2, page 302. Concerning heroic humility. Humility is the foundation upon which the entire edifice of Christian perfection rests, as is taught by St. Augustine in these words: "If you wish to construct a great building of great height, consider the foundation first." *Liber de verb. Domini*. And as John Chrysostom says: "He who lays this foundation correctly will be able to raise a structure of whatever height he desires." *In Gen. Homil. 35*. Indeed, if we recall, as we have said above, the actions of this servant of God concerning other virtues, and especially concerning the neglect of devotion, poverty, and contempt for riches and honors, we must acknowledge that he was a most diligent cultivator of humility. But other arguments also emerge, which further prove and confirm this virtue. Although the Apostle had spent his life seeking the glory of God and the salvation of souls, and had achieved so much with admirable results, he was not afraid to publicly confess himself to be the greatest sinner in his sermons. Guided by the same spirit of humility, he constantly disdained human honors and glory in all things, and refused the offered dignity of a bishopric. He never allowed a photographic likeness of himself to be made, nor did he wish to place his name at the beginning of his published works. Although he excelled in knowledge among others, in all matters he sought counsel from those below him; and he was so modest that he avoided saying anything that might seem presumptuous or boastful, or that might in any way indicate the fruits of his labors. But how could the servant of God be praised, who sought nothing more than to be despised by others? And it is not surprising: for "when a man truly and sincerely despises himself and considers himself worthy of contempt, he will also desire to be despised and held in low regard by others." *Card. Bona, princ. vit. Christ., p. 2, cap. 28*. From this humility, he also diligently concealed all his virtues, so that he avoided every opportunity for boasting as if it were the most bitter enemy. Therefore, it is rightly concluded that

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the virtue of the servant of God was as great as the amount he concealed.

[*Latin ed. p. 376*]

37G Information cannot be dispensed with. Therefore, according to the sanctity which has been prudently declared, a judgment is made according to what is handed down by Scacchus: "Humility, once proven in the actions of a Servant of God, is the highest and most perfect argument of sanctity, and is gathered from the effect of beatification and canonization." From the notes and signs of sanctity, Lect. 5, chap. 5, page 351. Concerning supernatural gifts. God, in His mercy, wished to illustrate the outstanding virtues of Bartholomew, which were recently described, with supernatural gifts and miracles, so that His sanctity might appear more brilliantly to men. And first of all, it abundantly appears from the accounts that this divine charisma was bestowed upon him, by which he restored obstinate sinners, held captive by the bonds of mortal sin, to the grace and friendship of God. Moreover, it is known that, as if a divine power flowed from him, it moved even the hardest hearts. Countless testimonies have been given, so that from this, an undeniable argument for sanctity can be deduced, as the most learned Cardinal Bona teaches: "Those things which appear in the souls are to be considered as truly and absolutely signs of sanctity; for God does not usually accomplish such a work, namely, a perfect conversion to God, in one who is not pleasing to Him." Concerning the distinction, Spires, chap. 6, no. 9. What is the true meaning of the gift of salutation, with which he revealed the secrets of hearts? By the inspiration of the Divine Spirit, in some penitents, a great fault concerning the due disposition, and especially sincerity, was revealed, when approaching the sacramental confession. Nor can the prophetic spirit with which he shone be passed over in silence. For, while foretelling the material progress of our age, which boasts and brings forth the highest praises, Bartholomew also foresaw and foretold the evils with which we are afflicted. To this also are to be referred the prophecies, in which he foretold the death of others, and his own, which he ardently desired, wishing to be dissolved and to be with Christ. Similarly, it is said that Rildo D. Benedict Tombini foretold the time of his death, and announced to him that he would live to the age of forty-three. And this, as a certain Joseph Mazzanti recounts, did indeed happen. Concerning the fame of sanctity. Since the facts are as they are, let us not be surprised if those who knew the Servant of God, even if they carefully and diligently sought out his virtues, and...

[*Latin ed. p. 377*]

INFORMATION 377: Concerning the celestial gifts with which he was endowed, which some concealed, yet from which they conceived an opinion of his sanctity. Indeed, from all without exception, the Most Reverend Bartholomew was considered a great man, an indefatigable worker in the

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Lord's vineyard, a most esteemed and venerable priest, a holy missionary, similar in virtue to Saint Leonardo of Port Maurice. Moreover, many Cardinals of the Most Holy Roman Church considered him a man of outstanding sanctity, and commended themselves to his prayers, as countless letters attest, from which it is clear that he was held in great veneration, and that many bishops, servants of God, followed his example. Nor should it be overlooked that many, both in times of doubt and adversity, sought refuge in this servant of God as if to a divine oracle, and completely acquiesced in his counsel. This same reputation for sanctity was also known among the Roman Pontiffs, due to his outstanding spiritual virtues. Indeed, Benedict XIV, Clement XIII, Clement XIV, and Pius V held him in high esteem, and bestowed upon him many privileges and faculties. What more? Many illustrious and holy men, servants of God, did much for him, and among these, Paul of the Cross, with whom he was intimately connected. This reputation for sanctity was not confined within the walls of Bologna alone, but extended far and wide, and wherever Bartholomew went, he was accompanied by it. And his fame never diminished, but rather increased day by day in all regions of Italy; and therefore, it is not surprising that, whenever he undertook missions, a very large crowd of people would gather to hear him, as if he were a man sent by God. This outstanding praise for his sanctity was further increased by miracles, which God granted through the intercession of Bartholomew; for miracles have their own language, as Saint Augustine teaches in Tractate 24 on the Gospel of John. And here, a few things should be briefly recounted. When the apostolic man was preaching in an open plain about the torments of hell, in order to instill fear into the souls of the audience, he showed the souls of sinners falling into hell, like leaves from a tree; and as they fell, as Testimonies 17:39, 40 affirm, the tree was stripped of all its leaves.

[*Latin ed. p. 378*]

378. INFORMATION. Moreover, while delivering a sermon, a violent storm suddenly arose; but the rain, through the intercession of the Servant of God, fell only around the multitude of people, not harming anyone even slightly. Likewise, once, while passing through a certain area, commonly called "La Fiorentina," which was corrupted and lacked blessings, and where the inhabitants at that time were drawing water for their necessities, the water suddenly became pure again. Also, it is remembered that, during a certain sacred expedition, a wicked man threw a fiery ball against Saint Bartholomew, while the Missionaries were nearby; but the Servant of God, passing by at that moment, repelled it, and thus saved them. Concerning his final illness and the precious death of the Servant of God. After having for a long time devoted himself to the increase of God's glory and the salvation of his neighbors, and having, with his body weakened, continued his apostolic labors, Bartholomew realized that he was approaching

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the end of his life, albeit at a premature time. Returning to Bologna from Ferrara, where he had given spiritual exercises to the clergy and students of the Seminary, on December 14th of the year 1778, he began to suffer from a very severe fever. The doctors, who had been called to care for him, employed all their considerable skill and the most efficacious medicines. Meanwhile, the illness increased daily, and especially worsened. Vigorous prayers were offered throughout the city of Bologna to snatch him from the jaws of death. But it was otherwise willed by God, who had already decided to reward Bartholomew with the prize of heaven for his labors and virtues. In the meantime, surrounded as it were by heavenly peace, the Servant of God exercised himself in heroic acts of virtue, continually uttering fervent prayers. But lest that tranquility of spirit should exceed all bounds, or exist without cause, he asked the opinion of his confessor, and immediately obeyed his advice, when the latter urged him to acknowledge the singular grace of divine mercy. With joy in the heart, the Servant of God immediately looked upon his Most Reverend Superior, and earnestly commended the work of the Missions and the apostolic labors to him, and requested that, the following day, while the solemn sacred rites were being celebrated, he would pray for the soul of the deceased; these words foretold the imminent death, as another had foretold. Meanwhile, the Servant of God, lest he should neglect even a small part of his divine duty, daily recited the Holy Rosary.

[*Latin ed. p. 379*]

INFORMATION 379: He received the last sacraments. Finally, when he was urged to receive the Extreme Unction, he requested that it be administered to him immediately, and he joined the priests in prayer for the sick, offering the wisest of consolations. Finally, having obtained plenary and other indulgences, amidst the prayers and tears of those present, he concluded his life with a most peaceful and precious death, preceding the Nativity of our Lord Jesus Christ, whose feast he began to celebrate most fervently in heaven. The funeral procession of the servant of God was held with great solemnity, and his body was transported with due reverence. Scarcely had the news of his death spread, when all hastened to see him, and proclaimed that the Saint had passed away! The city of Bologna was deeply moved by sorrow, but throughout all the regions of Italy, a common lamentation of the faithful followed the death of Bartholomew. There was an innumerable throng of people who attended the funeral ceremonies. Indeed, so great was the crowd that gathered each day that it was necessary to post Swiss soldiers at the doors, so that order would not be disturbed. Nor was this parental love to be passed over in silence; it was celebrated with great splendor in many cities of Italy, and funeral services were held in the temples. A solemn ceremony was held by the clergy of Bologna in the church dedicated to Mary Magdalene. Concerning miracles after his

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death: It was not long after the death of his faithful servant that invocations to him began, through whose intercession many miracles occurred even after his death. And first, Count James Zorli, who was brought to the brink of death by a broken leg, after performing novena prayers in honor of Bartholomew, was restored to his former health. Thomas Dazzani, an eighty-year-old man, who was also afflicted with illness, confessed that he could scarcely speak due to a severe oppression in his chest; but, having placed the image of the servant of God on his chest, he was immediately healed. The Reverend Father Angelus Cappucci, who was afflicted with typhoid fever and subsequently with pneumonia, and with other illnesses which the doctors considered incurable, was restored to health with the help of the servant of God, at the very threshold of death. The accounts also mention a certain man who was afflicted with a deadly disease, and who, having lost strength in the Christian religion, regained his strength immediately, and his wife placed the relic of the servant of God on his body.

[*Latin ed. p. 380*]

380 I N F O R M A T I O N. Furthermore, Aloysia Zani, as the parish priest himself testified in the process, who was afflicted with a serious illness and near death, was, after the invocation of the Servant of God, unexpectedly freed from her infirmity. Besides this, many other healings are described in the records. Concerning the reputation for sanctity after death. The marvelous events which we have thus far recounted have contributed greatly to the fact that the name of Bartholomew has become renowned for extraordinary virtues, both before and after his death, and that it continues to grow in amplitude and strength daily. Indeed, noble, learned, prudent, and even distinguished men, together with the faithful people, unanimously recognize the sanctity with which the Servant of God was endowed; in fact, many call him by the venerable title of saint or apostle. All the witnesses unanimously attest to this reputation for sanctity; the bishops of Tudertinus, Numiensis, Caesena, Perugia, Asculanus, and Spoletanus, in their solemn letters and decrees, having been informed of the death of the Servant of God, attest to this; many seek the relics and images of the deceased apostolic man, which are carried to the sick and are present. This reputation is most clearly demonstrated by the frequent attendance at the funeral, the crowds gathering at the tomb, and the invocation of the name of Bartholomew, as well as the exhortations to seek his intercession in times of need. Finally, many petitionary letters testify to this, which have been sent to the Archbishops of our Italy, to ten and four bishops, and also from many superiors of religious orders, from important chapters, from noble colleges, from many monasteries, from the partition and healthier part of the city of Bologna, to His Holiness Pope Leo XIII, so that he might deign to grant the introduction of this cause. Moreover, it is to be noted that from

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these petitionary letters, a solemn testimony clearly appears, concerning the widespread reputation for the sanctity of the Servant of God. Nor has the reputation for the sanctity of the Servant of God suffered any diminution with the passage of years or the ravages of time, but rather it is increasingly growing daily; indeed, Cardinal Lucido Maria Parocchi, whom we honor with this name, formerly the Archbishop of Bologna, and who, as we have mentioned, is promoting this cause, wrote in his petitionary letters: "The reputation for the sanctity of Bartholomew of Monte, which has flourished for a century and more..."

[*Latin ed. p. 381*]

INFORMATION 381. Furthermore, very recently, as some public reports indicate, through the intercession of Bartholomew, and of which I myself seem to have ascertained the truth, certain marvels have aroused the expectation of the people of Felsina [Bologna], and have daily increased their faith, etc." Therefore, since in this most important matter concerning the sanctity of the person in question, which is not based on empty popular rumors, but on heroic virtues, supernatural gifts, and miracles, and which has always remained constant and has spread widely; I conclude that such a reputation must be given the utmost consideration; "because even after death, it has persisted until these times, and therefore it must be said that it has proceeded from the Holy Spirit. For what is not of God, does not endure." Relation. Causes of St. Bonaventure, part 2, article 10. Given these circumstances, we are certainly and firmly convinced that this sacred Order will respond affirmatively to the doubt raised by the Commission. Disputation of the Synods. OBSERVATIONS OF THE MOST REVEREND PROMOTER OF THE FAITH. One hundred and ten years have passed since Bartholomew Maria Dal Monte met his death. He served in the Leonardian, Port Maurice, Paul Crucifix, and Franciscan Maria Imperial congregations, and imitated their example, traversing Italy on sacred expeditions from the year 1750 to 1778, which was the culmination of his labors and his life. However, this circumstance distinguishes this case from those others; for whereas, after the deaths of those others, ordinary inquiries into their lives, virtues, and miracles were immediately begun, in our case, the process was delayed until the ninetieth year. Therefore, Peter Franchiau, the author of a biography of Bartholomew, published in Bologna in the year 1845, is astonished by this. Hence arises the principal difficulty of the present cause. Such negligence provides a very strong argument for doubting, lest our most learned Benedict be judged rashly. For this reason, the Sacred Congregation prudently advises...

[*Latin ed. p. 382*]

382 OBSERVATIONS concerning those who propose a cause, that they should not undertake this preliminary investigation before ascertaining

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that the cause has been adequately prepared, Book II, Chapter XXXVI, paragraph 13. Indeed, as the Venerable Bellarmine observed in his testimony in favor of the canonization of Saint Francesca Romana, in order to demonstrate sanctity, it is not enough that the person be holy before God; but it must be proven by the most certain documents that, while living, they truly shone with the glory of sanctity before others, and that they closed their earthly life in that same sanctity, and finally, that after the death of the body, their souls have attained eternal blessedness." Benedict XIV, Book III, Chapter XXXVIII, paragraph 1. In the present cause, it will be readily apparent that this cannot be achieved, by examining more closely the nature of the proofs. Let it be so.

CHAPTER I: Concerning Proofs.

When Lambertinius published his work on canonization, very few causes were undertaken in which there was a lack of witnesses; for it was the principle in the Sacred Congregation: "In causes proceeding by the way of cult, virtues must be proven by witnesses who have seen [them]," Book III, Chapter III, paragraph 6. This deficiency of witnesses was a peremptory exception, and must be presented at the very threshold of judgment: "For if the Signatura Commission, as cited above, paragraph 17, opens the way to further investigation by the authority of the Apostolic See, an insurmountable obstacle will not only be that which prevents the excellence and brilliance (as is customary to say) of the virtues, but also that which prevents their proof. In this matter, therefore, it must again be asserted what was said above: namely, that either the Commission should not have been signed, or that, even if signed, it cannot be sufficient for those who propose a cause, that the proof be obtained from witnesses who have heard from those who have seen, along with historical accounts and writers of that same age." Ibid., paragraph 17.

Given these circumstances, Pope Benedict XIV, "in order to remove any ambiguities and to establish a clear law," issued a general decree on April 23, 1741; in which, for causes proceeding by the way of cult, or granted by the Apostolic See, or those which have been pending for a long time, the proof of virtues or martyrdom must be...

[*Latin ed. p. 383*]

PROMOTORIS FIDEI 383 statuit, quod ea quae appellant "subsidia probationis," quae fundantur solum in testimoniis auditum, interdum a testibus qui viderunt, interdum non, sed tamen corroboratae sunt variis adiunctis, possunt esse admittendae "ad faciendum virum prudentem et de re gravi iudicatur, auctoritatem et fidem idoneas." Deinde, accedens propius ad nos, addit: "Ex quadam etiam aequitate... possunt eadem subsidia probationis admitti, et in Causis simplicium Dei Servorum, quae per viam non cultus procedunt: quando tamen, notetur, non constiterit primos Auctoritate ordinaria Processus fuisse dolo, malo, aut culpabili

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negligentia tamdiu dilatos, donec testes de visu nulli superessent." Ne vero aliquibus Causis antiquioribus videretur Commissionem iam designatam praeiudicium inferre, illico addit: "et quando, etiam comperto eiusmodi testium defectu, Sacrae tamen Congregationis consilio signato. Causae fuerit Commissio, et Litterae Remissoriales ad processus auctoritate Apostolica faciendos expeditae, nulla eum spe testium de visu in ipsis audiendorum." Ibid. n. 25. Comparata ista disciplina, quae Lambertini tempore in S. Congregatione obtinebat, cum iis quae aequiorem ac planiorem Causarum cursum ipse Pontifex constituit, haec apparent: Primum: attestationes oculatorum testium a Sacra Rituum Congregatione adhuc maxime in hisce Causis desiderari; secundum, iis deficientibus, ex quadam aequitate Benedicti decreto potissimum inducta, admitti posse probationes subsidiarias, per testes nempe de auditu, ac documenta authentica, in suo tamen, ut aiunt, genere perfectas; loc. cit. n. 24. Nihilominus, in ipso disquisitionis limine, cum petitur signanda Commissio, docendum esse tum de hac idoneitate in suo genere probationum, tum de absentia cuiuslibet culpabilis negligentiae, ob quam dilata fuerit Processuum confectio, donec omnes de visu testes defecerint. Iam ergo quaero: abfuitne in quaelibet omnino negligentia? Eae quaemodo afferuntur probationes, deficientibus de visu testibus, dici ne possunt in suo genere perfectae? Omnes porro abfuisse negligentiam difficile admodum erit ostendere, ne procul dubio impossibile, postea quae ait Author Biographiae Servi Dei. Si enim in Causis Leonardia Portu Mauritio, Paulia Cruce, atque ipsius Francisci Mariae Imperiali tanta diligentia enituit, unde namtantarepetenda incuria ac desidia sociorum Bartholomaei nostri, qui ipsum neglexerunt?

[*Latin ed. p. 384*]

384 OBSERVATIONS. It is certainly not without reason that we suspect that the proceedings have been neglected, because those who knew Bartholomew, and considered him to be most pious and worthy of much praise, did not, however, believe that his virtues were such that he could be venerated as a saint in the Church. Shall we indulge in vain conjectures? But it is the duty of those who present the cause to point out the mark of negligence, which the very delay makes it impossible not to presume. However, it is possible for those presenting the cause to decline to mention this mark of idleness or negligence. This is not yet the case. For it is now necessary to further investigate, according to our judgment, whether this subsidiary evidence is perfect in its kind. Furthermore, the proceedings, although in terms of form they leave almost nothing to be desired, were initiated sixty-nine years after the death of the Servant of God, and contain only a few testimonies heard by witnesses, from which very little could be extracted that would be useful for the instruction of the cause. In addition, there are several extrajudicial documents, some of which have already

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been printed, others written by private individuals, and still others, such as letters, or at least subscribed, or without any subscription. And there are also several letters which were written after the death of the Servant of God. With such testimonies, lacking legitimate proof from witnesses, the advocate for the cause is compelled to present them first, and to place the main weight of the evidence on the subsidiary evidence. But this is in vain: for the most well-known decree of Pope Innocent XI states that extrajudicial documents are not to be inserted in the proceedings, and that they do not constitute any proof, and that they are to be removed from the very acts of the proceedings. To this decree, Benedict XIV immediately added: "Therefore, it is the practice of the Sacred Congregation that, if extrajudicial testimonies are found in any proceedings, the validity of the proceedings should be approved, if legitimate grounds concur for this, but with the clause: 'EXCLUDED ARE THE EXTRAJUDICIAL TESTIMONIES.'" Benedict XIV, Lib. II, Cap. XLIX, n. 21. And the very same Benedict XIV, with regard to extrajudicial documents, clearly approved the decree of Innocent XI in Cap. X, Lib. III, n. 13. And so it still obtains in this sacred forum; therefore, when in the cause of the V. S. D. John Eudes, the validity and relevance of the apostolic proceedings concerning his reputation are questioned...

[*Latin ed. p. 385*]

The Promoter of the Faith, 385, regarding sanctity, the Sacred Congregation for Rites responded to a doubt with an affirmative answer, but added a clause: "After examining the testimonies, namely the extrajudicial letters presented by Witness I and Witness IV, on May 8, 1881." Furthermore, the weakness of these documents is demonstrated by the very judgment of experts. They state: "The documents assigned, etc., pertain, etc." This is not the manner in which expertise should characterize its judgment. For this requires, after a careful examination of the writings, that the experts declare "that, according to the art of expertise, they believe the writing to be that of this or that author, and to have been written at this or that time, giving the reason why they say and think so." (Lib. II, cap. LII, n. 3). Moreover, if a comparison of characters is to be made, it is necessary "that the writing to which the comparison is made be entirely certain." (Ibid., n. 5). Since all of this has been neglected, one can rightly doubt whether these documents truly have the authors, who are believed to have written them, and whether these most esteemed men were truly experts. Furthermore, it is added that these experts, Aloysius Della Rovere and Franciscus Canonicus Manaresi, undertook this task without taking any oath, whereas it is required that they should swear, solemnly and truthfully, under penalty of nullity; loc. cit. Among the documents presented by the Postulators is the aforementioned "Life" of the Servant of God, edited by the Priest Peter Franchi of Bologna in the year 1845: to this "Life" are referred those longer

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passages which are found in the Summary. I do not deny that in historical causes, ancient documents are accepted as evidence. But in the present case, we are dealing with a "Life" written by a private author and recently printed, and the weight and authority that should be attributed to it, can be understood from Benedict XIV: "As for a recently published "Life," it must be said that it is not sufficient to establish a legitimate origin of the reputation of the person about whom it is written, unlike an ancient "Life" published by a reliable author. Therefore, the Reverend Father Prosper Bottinius, Promoter of the Faith, in his observations made in the cause of the Servant of God John of Ribera, regarding the reputation for sanctity in general, says: "However, this is not a legal method of proving reputation, since the entire basis and reason rests on the authority of the author of the "Life," which cannot have much weight when the history is not very ancient." (Acta, Tom. XXIII, fol. COLXXI, 25).

[*Latin ed. p. 386*]

386 OBSERVATIONS, having been examined by a council of theologians, and which the Apostolic See has permitted to be published, without whose permission they cannot be printed; the general decrees of Urban VIII state that no step in the process of Beatification shall constitute a higher degree of proof than would have been established without such approval, notwithstanding any lapse of time." Lib. II, cap. XL, n. 8. Hence, as the Author declares in the preface of the work, it is to be wondered that no one has thought to record the deeds of the Servant of God; nevertheless, the work exhibits exaggerations which readily strike the eyes of the reader. Moreover, the funeral oration, which was delivered in honor of the Servant of God, and which furthermore pursues similar praises, is, for the most part, related in the Summary to supplement the lack of approvals. Therefore, setting aside these kinds of documents, let us see what the testimonies of the witnesses, which are recorded in the process tables, are worth. And indeed, not a few witnesses are listed, namely, forty or more. But not only was it impossible to find anyone among them who had actually seen him, but almost all are based on hearsay; and yet, at least some of them should have fulfilled their duty so that their testimonies would provide perfect proof of their kind! On the contrary, the information gathered from the witnesses is exceedingly meager and extremely concise, not only concerning heroic virtues, but also concerning the very simple fame of sanctity; and indeed, there are even some among them who, instead of adhering to established tradition, rather adduce a commentary on the life of the Servant of God for the sake of their own knowledge. Moreover, very few of those witnesses who are presented in the Summary as having seen him are willing to offer conjectures for the sake of their own knowledge. And there are those who were young when they heard about the Servant of God, and who claim to have no recollection of the events. "I remember," says Witness 16, "that I

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was present when he died, and I was about ten years old; therefore, I cannot preserve a good memory of what he said." Indeed, if these observations are sufficient, they indicate that, at the very threshold of the Cause, not enough and not solid proofs have been presented to support the fame, so that one may hope that, in the subsequent stages of the judgment, the Cause itself will be presented with more favorable auspices, where not a general demonstration of sanctity, but specific and complete proofs are required? Surely, these deficiencies will constitute an insurmountable obstacle?

[*Latin ed. p. 387*]

CHAPTER SECOND, concerning reputation for sanctity. Benedict XIV states, "Reputation for sanctity is nothing other than the estimation, or common opinion, regarding the purity of life, and the virtues, not in any haphazard way, but through continuous acts, given the opportunity, exercised above the common manner of other virtuous men or women by some Servant of God, already deceased, and also concerning the miracles wrought by their intercession by God; so that devotion is conceived in one or more places towards them, and they are invoked by many in their necessities, and are judged by many important men to be worthy of being referred by the Apostolic See to the Album of Saints or Blesseds." Book II, chapter XXXIX, paragraph 7. But does it not become clear from the testimonies presented that this kind of opinion is based on continuous and indeed heroic acts of virtue? Consider briefly the summary, and there you will see nothing other than a collection of brief testimonies, which the author has diligently gathered as persuasive arguments, and each testimony refers to different acts of virtue. Do the witnesses generally proclaim the Servant of God's zeal in sacred and religious matters? This argument demonstrates acts of faith, and also charity towards God and neighbor. Furthermore, only a few witnesses mention the Servant of God's hope. If we were to inquire about the cardinal virtues, we would find no explicit word in the testimonies regarding prudence, but only some fragments taken primarily from the commentaries. To support the virtue of justice, the witnesses refer, for the most part, to the diligent observance of the commandments of God and the Church. Regarding fortitude, the zeal for missions is mentioned, and in the title of temperance, witness V states, "especially they told me about his lack of concern for temporal matters," and witness VI: "I heard that he was a man of great prayer and mortification." Nor are the testimonies of the others without significance. Regarding specific acts of virtue, which they are asked about, and which they either do not know, or have not heard of from others, did the Servant of God observe the commandments of God and the Church? But almost all either conjecture or suppose. And the other witnesses also deduce his observance of these commandments from his zeal, and refer to the testimonies already given. Furthermore, we ask: Did the Servant of God cultivate Christian virtues? Or they do not know: as I

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and III; or they only suppose;

[*Latin ed. p. 388*]

388. OBSERVATIONS, as if from a witness, or rather, a commentary that seeks refuge as a witness. Similar accounts are given by witnesses I, X, XI, XII, XIII, XIV, and XV. Others protest that nothing specific can be attributed to this case. But what of the very fact that the historian Peter Franchi, in his work, did not hesitate to assert the lack of defects in the virtues practiced by the individual? Furthermore, if the witnesses were unaware of evil deeds, what other responses could be expected than these? From the teachings of Benedict XIV, and from the perpetual practice of the Holy Roman Church regarding the examination of causes, it is also required, in addition to the reputation for virtue, that there be a common belief that miracles were worked through the intercession of the Servant of God. But these witnesses claim to know nothing of such things. Then, Vindex points out that the healings of Angel Cappucci, Thomas Dazzani, the priest Petronio Nanni, the count Jacobo Torli, and others were not, in fact, works performed by the Servant of God Bartholomew Dal Monte. Regarding the supernatural gifts with which Bartholomew was endowed, and the fact that these were attributed to the Servant of God, this is disputed, or rather, it is suggested that these should be attributed to Leonardo de Portu Mauritio. It is said that the Servant of God, during his life, which he spent in the field, said that the souls of sinners fell into hell, like leaves from a tree, which he himself shook, and they immediately fell. Finally, concerning the death of the Servant of God, although some witnesses indicate the year and place in which our Bartholomew died, they do not predict anything that would demonstrate that his death occurred in a manner pleasing to God. This difficulty is not insignificant, since Benedict XIV writes: "In causes of beatification and canonization, it is of great importance to consider the manner of death of the Servants of God, and all that happened in that event must be carefully considered," *Liber Tertius, cap. XXXVIII, n. 15.* He also writes in the general decrees of Urban VIII: "In conducting these proceedings, it must be observed above all that the outcome of the life of the one who is being considered for canonization must be examined, for, as is commonly said, the outcome [of life] proves whether the end of life was illustrious, and full of sanctity, and especially noted by public testimony, which will be an argument that the actions performed before were also holy; and therefore, in forming the articles, it must be considered what the outcome of life was like, and with what circumstances of sanctity it was endowed; for in this article lies a great weight of the cause," *Ibid., n. 3.*

[*Latin ed. p. 389*]

PROMOTORIS FIDEI 389. And when, having heard the testimonies of witnesses, a clear demonstration of virtues and miracles arises, it is not fit-

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ting for the Servant of God's actions to have surpassed the common manner of working of other virtuous men; by what guiding reasons, then, should we judge the reputation of sanctity, if any existed, to have arisen from probable causes? Hence, whatever is related in the testimonies does not differ from the common rumor, as the praised Pontiff writes frequently in *Lib. II, cap. XXXIX, n. 8, 9*, that the reputation of sanctity entirely differs. Moreover, this reputation was not universal, nor widely and long-lasting, nor did it flourish among a greater and healthier part of the people, but rather among a few, and even among some who are entirely misguided. And indeed, as many witnesses state, the very place of the Servant of God's burial is unknown, and they have never gone there, nor do they know if others go there. Among these witnesses, number 34, although from the canonical Church of St. Peter, where the body of the Servant of God is kept, declares: "I have never seen his tomb, nor anyone else, and I have seen no one doing so." But as Benedict XIV writes: "I can testify that, while I held the office of Promoter of the Faith, a considerable cause was brought forward for the Beatification of a certain Servant of God, because there was no, or, if there was, already ceased, a gathering of the people at his tomb," *Lib. II, cap. XXXIX, n. 10*. Therefore, we must be wary lest, without exaggeration, or rather without open injury to the truth, it be asserted in the Commission's formula that "devotion was conceived in various parts of the world towards this Servant of God, and that he is invoked by many in their needs, and that many also of grave men consider him worthy of the honors of Beatification and Canonization." For the opinion of the faithful clearly shows that Bartholomew Mar of Dal Monte did not possess that sanctity which is usually generated by the practice of heroic virtues. Where, then, is the reputation of sanctity, where are the virtues, as it is said, which at least in this place of judgment must necessarily be shown?

CHAPTER THIRD. Concerning Obstacles. It is not surprising that more cannot be presented, which would have a true bearing on the matter, since the writings that remain about the Servant of God all pertain to his praise and commendation. However, some things, even if they do not explicitly contradict, may nevertheless...

[*Latin ed. p. 390*]

390 IN ANSWER to the criticisms of the aforementioned Bartholomew, which indicate that he did not foster a sufficiently high estimation of himself. But above all, the steadfastness of his spirit is to be noted, as is shown by the fact that when the Cardinal Vincent Malvezzi, Archbishop of Bologna, offered him the position of rector of the Bologna Seminary, he ultimately yielded to the Archbishop's will; but he never again accepted a similar office. When he held this office, he served as a vicar, and finally, when he was in Rome, he presented a petition to the Archbishop of Bologna, in which he begged to be relieved of this office. Furthermore,

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if in a case there are lacking proofs, if there are lacking arguments, what demonstration, at least of the general character of sanctity, will be probable for the happy outcome of this cause? Few obstacles have been encountered. But it is obvious that there is a lack of an obstacle in a case in which knowledge is almost entirely lacking. However, from Benedict XIV, we know that "an insurmountable obstacle will not only be that which hinders the excellence and splendor of virtues, but also that which hinders their proof."

RESPONSE TO THE OBSERVATIONS OF THE REVEREND FATHER PROMOTER OF THE FAITH.

Attached to this are the observations of the Defender of the Faith. For he believes that there can be no prejudice against our cause, because after a very long time since the death of Bartholomew Maria Dal Monte, ordinary investigations into his life, virtues, and miracles have been instituted. To strengthen and confirm this argument, he compares it, and recalls that the same investigations were begun and completed in a very short period of time for Leonard Portu Mauritio, Paula Cruce, and Francis Maria Imperiale, with whom Bartholomew Dal Monte was familiar and who were examples he had imitated. The Promoter of the Faith does not fear to say this.

[*Latin ed. p. 391*]

AD ANIMADVERSIONES 391 What, then, could be the reason for the delay in our cause, which is opposed by adverse circumstances? It has happened, as testified by the ecclesiastical history of numerous Beatifications and Canonizations, that the ordinary process concerning the life, virtues, and miracles of the most holy men has been delayed for a very long time, indeed, much longer than in the present case. Moreover, it is by the most wise counsel of God that, frequently, the glory of some, even illustrious, Servants of God, is delayed before men, so that, with the passage of time and the opportune moment, it may shine with a brighter light, and propose an example to the Christian people. But let us not dwell only on these things; there are reasons in our case why it has happened that the ordinary process has been delayed until the ninetieth year. And indeed, it is true that the life, virtues, and miracles of Bartholomew Dat Monte were subjected to those fearful vicissitudes of times, in which the Church of Christ, especially in European regions, namely in Gallia and in Italia, was so afflicted, and in which civil society itself was deeply shaken and almost seemed to be overthrown. The archdiocese of Bononia suffered a considerable and most grievous share of these vicissitudes. Sixteen years after the death of Bartholomew Dat Monte, suddenly, the armies of the Gallic kingdom invaded the pontifical territories with arms and force, seizing, above all, Bononia. What vexations were begun there, what injuries were inflicted, to what extent they sought to destroy the religion of Christ, it is impossible to recount. Let us remember only this: that, as the hatred of the

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new rulers against the Roman Pontiff increased, it came to pass that new and most cruel laws were enacted against the clergy of Bononia, for the perpetual crime of professing, with utmost fidelity in words and deeds, that the Supreme Vicar of Christ on earth was the Pope. It was seen that Gallic soldiers, inflamed with the most furious rage, plundered and desecrated, running through the day and night, invading religious houses, despoiling altars, stripping parishes of their possessions, seizing ecclesiastical property and converting it to profane uses, seeking out priests wherever they could, and driving them from their seats.

[*Latin ed. p. 392*]

392. IN ANSWER, they sought to uproot, to agitate, and partly to seize from prison, and partly to banish, terrifying all with violence and threats. Among these was the Cardinal Archbishop Giovannetti, who, in this, the nineteenth century, had served as administrator of the archdiocese of Bologna; and Cardinal Oppizzoni, who, for the sake of the cause of Christ, aroused the fury of the enemies, so that he was first thrown into chains, then punished with exile, and for a long time was separated from his flock and from the most beloved Church. All these things happened, and continued into the fifteenth year. And so, in those very burdensome times, could it have been otherwise than to remain silent, but rather to set one's mind to investigating the life, virtues, and miracles of Bartholomew Dal Monte, to investigate them thoroughly, to arrange them properly, to have them duly examined, and to communicate them with legitimate authority? After the year 1815, with the civil unrest subsided and the hostile domination repelled, the Church in Italy seemed to be recovering somewhat. But true peace had not been established, but only brief respites from war were granted; and furthermore, as other events followed in the year 1831, and those in the years 1848-49, and those that occurred in the year 1859, when a large part of the provinces, among which was Bologna, was unjustly taken away from the Roman Pontiff; these events demonstrate that the efforts of impious men against the Church have not ceased from the beginning, nor have the conspiracies of sects fallen into ruin. Indeed, even in these times, or rather, in times so tumultuous and so full of trials, it was easy to begin the process of our Bartholomew. For, besides the public affairs and dangers, which daily increased, distracting men's minds, the greater and more urgent concerns for the salvation of souls demanded the attention and energies of ecclesiastical authority. Nor should it be forgotten that among the many dioceses of Italy, the archdiocese of Bologna is one of the largest, consisting of four hundred parishes, and having more than four hundred thousand souls entrusted to it. But this is not the end of the misfortunes of the Church of Bologna. For, after the death of Cardinal Oppizzoni, the archiepiscopal see remained vacant for some years. It is said that Cardinal Viale Prelà was chosen to fill

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this position, on that most sad twelfth day.

[*Latin ed. p. 393*]

AD ANIMADVERSIONES 393. In the year 1859, due to a sedition against the Roman Pontiff, the royal insignia were torn down by rebellious citizens, and the dominion of all of Bologna and the entire province was, against all human and divine rights, offered and surrendered to the Alpine invader. Not long afterwards, in the year one thousand eight hundred and sixty-six, the Cardinal Viale Prelà, who had greatly promoted the Mission Work instituted by Bartholomew, passed away, more from spiritual anguish than from bodily illness. Meanwhile, with the religion of Christ being attacked by war, the Reverend Vicar, the Most Reverend Ratta, successor to the deceased Archbishop, a most pious and courageous man, and afterwards titular Bishop of Thermae, was held in prison. No less was the case with the Reverend Vicariate Chapter, Canzi, who, zealously defending the rights of the Church, was, through the hatred of his enemies, confined for three long years in the most severe prison in Palencia. All these things occurred, and they made the administration of that difficult diocese such that the blessed memory of Pope Pius IX judged it wise to send an Archbishop there to succeed him for a long time. Finally, it happened that the most eminent Cardinal Monchini was able, in the year 1872, to enter the Church of Bologna, which had been deprived of its Pastor for ten years and two months. He perceived that the day had arrived when, without any further delay, the ordinary investigation into the life, virtues, and miracles of that great Servant of God would be undertaken. Therefore, under the auspices of Cardinal Monchini, that most desirable process was begun, which, with his most illustrious and eminent successor, Cardinal Parocchi, was brought to a successful conclusion. Furthermore: for the sake of historical accuracy, we recount the reasons why the ordinary process concerning Bartholomew Dal Monte was delayed until the sixty-ninth year after his death. Therefore, the most diligent Promoter of the Faith is mistaken in appealing to the speed with which the processes of other Servants of God were completed. And likewise, the authority of Peter Franchi is wrongly invoked, who, in the year 1845, wrote a commentary on the life of Bartholomew. And indeed, Peter Franchi did not, in fact, complete the process of that Servant of God, since it had not yet begun in his time, but he was simply astonished that, considering the sanctity of Bartholomew Dal Monte, the matter had not yet been undertaken.

[*Latin ed. p. 394*]

394. He has diligently sought to provide a response. And it is clear that no other meaning should be attributed to the words of Peter, as has been clearly demonstrated from the entire sentence, which the most esteemed Censor extracts from the preface of the praised commentary. Indeed, the

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Defender of the Faith is accustomed to anticipating objections with greater skill, so that what initially appeared in the first observation as merely a cause for introducing a prejudice, in that very observation, he judges to be a true difficulty, and the principal one in this cause. Furthermore, the words of the Censor must be heard, which he writes, and which clearly contain a connection to the entire argument: "For indeed, negligence of this kind provides the strongest support for the argument that one should not rashly pronounce judgment." But what if it were said in our case that there was no negligence, but that it was entirely fabricated and gratuitously asserted by the most diligent Opponent? But we say this with good reason, after having recently recounted the historical causes for which the ordinary process concerning the sanctity, virtues, and miracles of Bartholomew was so long delayed. And if it has been demonstrated that there was no negligence whatsoever, does not the entire argument of the most esteemed Opponent necessarily collapse, since it is entirely destitute of its own foundation? However, the Censor himself, having more intimately examined the nature of the proofs, has observed that it has scarcely been demonstrated that Bartholomew of Monte lived, died, and was sanctified, and finally, after the death of the flesh, attained the soul to eternal blessedness. Therefore, it is our duty to pursue the Opponent with our own argument, to object to each point, and to refute and dismantle what is presented.

FIRST SECTION: Concerning the Proofs. Appropriately, Benedict XIV, in his work *De Servorum Dei Beatificatione*, instructs the Promoters of the Faith, as they consider in their observations, to distinguish between the introduction, the discussion, and the conclusion of the cause (lib. II, cap. XXXVI, n. 15). Indeed, this distinction is very important, as is also that other distinction, repeatedly declared by Benedict XIV: that it is one thing to prove the sanctity of a Servant of God in general, and another to discuss his virtues in particular.

[*Latin ed. p. 395*]

Having recalled to mind what has been mentioned before, it is easily seen what vice most afflicts the censure which the *Fidei Promotor* presents in this place. For those two things, which we have recently recalled, ought to be distinctly separate, yet they seem to be improperly confused and mixed together. Indeed, even he himself, appealing to the authority of Lambertini, writes: "At the time when Lambertini published his work on Canonization, scarcely any causes were undertaken in which there were lacking witnesses of sight; for it was the principle in the Sacred Congregation: 'In causes proceeding by the way of canonization, virtues must be proven by witnesses of sight.'" Book III, chapter III, paragraph 6. "That lack of witnesses, a peremptory exception, had to be stated at the very threshold of the judgment." But it is clear from his own words that Lambertini taught not about a requirement for a signed commission,

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but about proving specific virtues in particular cases, as is clear from the very title of chapter III, which the *Fidei Vindex* calls. The title is: "On the opinion of the Sacred Congregation of Rites, and on the practice of the present Apostolic See, regarding witnesses of hearsay in causes of Beatification and Canonization, WITH REGARD TO THE EXAMINATION OF VIRTUES OR MIRACLES IN PARTICULAR." Furthermore, it is clear from the most learned declaration which Benedict XIV himself, as a kind of introduction, places before all others. He says: "Therefore, so that no occasion for confusion may arise, it must be established here first that this does not concern the reputation of virtues, martyrdom, or miracles, since in the judgment of reputation, it has already been seen in the preceding book that witnesses of hearsay are admitted, and that individual witnesses are not rejected in any way, but that the question here concerns virtues, martyrdom, and miracles in particular." Book III, chapter III, paragraph 1. From these words, three things are clearly established. First, Lambertini, in this chapter, speaks directly about virtues in particular, not about them in general, much less about the reputation of the sanctity of the Servants of God; second, that this declaration preceded Lambertini, so that no occasion for confusion might arise; third, that the matter of witnesses of hearsay admitted in the judgment of the reputation of sanctity is taken out of the controversy. But our most learned censor did not hesitate to affirm that, at the time when Lambertini published his work on Canonization, scarcely any causes were undertaken in which there were lacking witnesses of sight, and that this lack was to be stated as a peremptory exception at the very threshold of the judgment? But it is clear in judgments of this kind that witnesses of sight must first be presented and required. But if these are entirely lacking, then, it is well...

[*Latin ed. p. 396*]

396. THE RESPONSE: The testimony of witnesses heard is sufficient, as taught by the practice of the Church and by writers skilled in the sacred rites. And Lambertinius himself, not only wrote what we have cited, but also, before attaining the highest office in the Church, states that he himself had discovered, through his own wisdom, that the lack of witnesses is by no means a peremptory exception, for the reason that a commission may be denied a signature in some case. Lib. II, cap. XXIV, n. 18. These considerations safely establish that the lack of witnesses, according to the very practice of the Sacred Congregation for Rites, which Pope Benedict XIV transmits and confirms, is by no means a peremptory impediment, so that a commission may be signed to introduce a cause for a Servant of God, when the process of that cause is completed long after his death. Therefore, it is clear that the argument used by the most learned censor in his third objection cannot at all be valid against us.

The question is: What are the words, which the adversaries submit, and

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which are cited in n. 17, chapter III, of the aforementioned work? And they are as follows: "For if the signature of the Commission opens the way for a further investigation to be carried out by Apostolic authority, there will be no insurmountable obstacle, not only to the excellence and splendor, as we are accustomed to say, of the virtues, but also to the approval of the cause. Therefore, in the matter at hand, he repeats what was said above; namely, that either the Commission should not have been signed, or that a signed Commission can be of no use to those who contend that, in causes of beatification and canonization, the testimony of witnesses heard is sufficient, even though they are those who saw him, and by historians and writers of the same age."

We respond that there is nothing difficult in the testimony cited by Pope Benedict XIV; for he denies nothing concerning the question that we are treating. For when the commission had already been signed to introduce the cause of the venerable Servant of God, Françoise de Chantal, while the investigation of her virtues was being carried out, in the manner customary for causes of beatification, the Archbishop of Philippi, then Promoter of the Faith, opposed it, among other things, because of the lack of witnesses. This lack of witnesses, in the cause for proving the virtues in question, caused doubt among the Most Reverend Consultors in the preparatory Congregation.

[*Latin ed. p. 397*]

AD ANIMADVERSIONES 397, ille contendebat quod esset obstaculum superabile. Volens autem praecavere obiectionem postulatorum, ex eo quod movent, quod non posset insuperabile obstaculum dici propter virtutes in specie deficiantiam testium de visu, quando eadem deficiëntia pro obstaculo insuperabili habita non est in signando commissionem pro causa introduenda, Archiepiscopus Philippensis illa verba, severior quidem, sed minus vera, adiunxerat, nullum constituendum esse momentum in commissione signata, nonobstantia effectu testium de visu. Hucusque Benedictus XIV historiam rem narraverat. Mox vero suam exponens sententiam, sermonem laudati Promotoris Fidei improbat, neque illum evincere assumptum asserit, id statuens, signaturam commissionis semper prodesse postulatoribus in causa et cursu, si iterum illa difficultas defectus testium proponatur, quae in iisdem adiunctis causae signaturam introductionis minime praepedire existimata est. Huc profecto non alio spectat conclusio illa Benedicti XIV: « In quo proinde thema, sibi iterum vindicat locum id quod in superioribus dictum est; scilicet aut Commissionem non debuisse signari, aut signatam prodesse posse postulatoribus contendentibus satis esse in ea et similibus causis probationem de sumptis testibus de auditu ab iis, qui viderant, una cum historicis, et scriptoribus aetatis eiusdem.» loc. cit. Quorsum vero Decretum Generale Benedicti XIV datum die 23 Aprilis anni 1741? Nostri interest in primis adnotasse,

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decretum hoc legitimum argumentationis medium clarissimo Censori nostro minime suppeditare. Et re quidem vera: nonne controversia nostra tota est de signatura commissionis? Atqui Benedictus XIV non de signatura commissionis, sed de prosequenda discussione causae, tum quoad virtutes in specie, tum quoad miracula, sermonem habet. Quod quidem vincitur primo ex occasione ipsa, qua decretum datum fuit. Scilicet datum fuit decretum occasione dubii propositi in Congregatione generali Sacrorum Rituum super virtutibus in specie Ven. Servi Dei Francisci Caraccioli. Nimirum agebatur iam de causa ipsius Beatificationis; deerant vero pro earum virtutum probatione testes de visu. Patet insuper ex ipso decreti exordio. Id ipsum constat ex lectione integridecreti. Decretum vero quid statuat ab ipso Benedictu XIV accipere est qui eius synthesim perspicuis verbis exhibet loc. cit.

[*Latin ed. p. 398*]

398. RESPONSE. You certainly have before you the words of that decree, by which the Defender of the Faith declares: "That, if it can be demonstrated by equity that the same [evidence] can be of assistance, and that, in the case of simple servants of God proceeding by a non-cultic process; when, however, it is noted, the first [step] was not a formal process, nor was it delayed through culpable negligence, so that no witnesses remain; then, the testimonies of witnesses to hearing and to sight, even of those who have already passed away, can be admitted and approved." The genuine and legitimate interpretation is this: the Holy Father, with these words, speaks of a cause that proceeds by a non-cultic process; he does not speak of the reputation for sanctity in general, but of virtues and miracles in particular. And, for the purpose of proving these things, which is of the greatest benefit to us, it is fitting to open a wider and more expeditious path, as the decree establishes, provided that no deceit or culpable negligence intervenes, so that the testimonies of witnesses to hearing and to sight, even of those who have already passed away, can be most suitably admitted and approved. With these things established, I ask, is it not clear that, whether the virtues and miracles in question proceed through a non-cultic process or through a cultic process, the decree of Benedict [XIII] should always and alone be followed, and that no word should be made concerning its indication or its commission? But the present controversy is this: whether the commission should be indicated for the cause of the Servant of God, Bartholomew of Monte. Why, then, is the praised decree of Benedict XIV brought up in this matter? Does it not most clearly create that confusion, which, as Benedict XIV himself warns at the beginning of chapter III, book III, of the aforementioned work? I say, confusion, which arises from the fact that a doubt about the reputation for sanctity in general is placed in the place of a doubt about virtues and miracles in particular. It seems to us that the comparison, which the Promoter of the Faith instituted in his

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discipline, concerning the acceptance or rejection of witnesses to hearing, which prevailed at the time of Lambertini, and that which the Holy Father himself established, is not very relevant. It is sufficient to note that the older discipline, which our censor calls the more severe one, has always, with the approval of the judgment, accepted the testimonies of witnesses to hearing, whether the indication of the commission is being considered, or whether virtues or martyrdom in particular are being proven. But let us briefly address the other points that the adversary brings up in opposition to this. He asserts that this follows from the comparison between the old and the reformed [discipline].

[*Latin ed. p. 399*]

AD ANIMADVERSIONES 399 concerning stricter discipline: "Testimonies of eyewitnesses are most desired by the Sacred Congregation, especially in these cases." We concede without controversy that, when living witnesses are still present, this is the case. However, when those witnesses have passed away, the matter is no longer complete, and necessity compels the acceptance of testimonies from hearsay. "Indeed," says Benedict XIV, "it sometimes happens that, through a culpable negligence, the testimonies of eyewitnesses are entirely and permanently abandoned; especially when, as is heard, God, without any clear signs from heaven, invites a friend to ascend [to heaven], such negligence is not to be overlooked." Furthermore, the Promoter of the Faith states that this subsidiary form of proof was most appropriately introduced by the decree of Benedict XIV. To be truthful, it cannot be said that this was introduced, since it had been in practice and was confirmed by numerous examples from times past. Moreover, whether the Promoter of the Faith says that this subsidiary form of proof was introduced by law or by equity, it makes little, or indeed no, difference. For, even after Benedict XIV, the Censor declared that subsidiary proofs, of their kind, ought to be perfect. Furthermore, according to the mind of the Pontiff, subsidiary proofs must be such that they should elicit the judge's suffrage, so that from them may arise "certainty of martyrdom or of heroic virtues; as Benedict XIV speaks not of a signed commission, but of virtues and of martyrdom, in a moral sense, so that, as they say, the judgment is rendered with the agreement of both parties, even if it is not impossible, but rather imprudent." Decree, etc. The opponent concludes his objection with these words: "Nevertheless, at the very beginning of the inquiry, when a signed commission is requested, it must be taught that this form of proof is of its kind suitable, and also that [in the absence of any culpable negligence, because the completion of the process has been delayed until all eyewitnesses have died]. Therefore, I ask: has there been any negligence whatsoever? And, if the proofs are presented in this way, when eyewitnesses are lacking, can they be said to be, of their kind, perfect?" Let it be taught, therefore, at the very beginning

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of the inquiry, when a signed commission is requested, that it must be pointed out both the suitability of this form of proof, and also the absence of...

[*Latin ed. p. 400*]

400 R E S P O N S I O: Concerning the alleged culpable negligence, due to which the process [for beatification] was delayed until all witnesses had died, we have already demonstrated that no culpable negligence existed on the part of the Postulators, in the preparation of the ordinary process of Bartholomew Dal Monte. Furthermore, with regard to the suitability of the evidence, insofar as it pertains to virtues and miracles in a specific instance, but rather to the general reputation for sanctity, we, having addressed the objections raised, are confident, with God's help, that it is entirely sufficient. That there was no culpable negligence in the prolonged delay of the ordinary process, is again denied by the Promoter of the Faith. However, it is easily apparent that the arguments upon which he relies have little probative force. And first, with regard to Peter Franchi, we have already stated that the words, which he uses in his preface, contain nothing other than a sweet and friendly lament that no biography of Bartholomew Dal Monte had been written before. Moreover, the sanctity of Bartholomew, as witnessed by those who were his colleagues in labor, is most clearly demonstrated by his very life, as described by Peter Franchi, among other things. Thus, the judgment of the sanctity of the Servant of God, as if it were a most precious inheritance received from his ancestors, was preserved by the Institute of the Missionaries of the Pietà Opera of Dal Monte, so that it could not be undermined or even shaken, neither by the passage of time nor by the vicissitudes of events. Indeed, two beautiful letters from the Postulators, sent to the Supreme Pontiff, one in the year 1882 and the other in the year 1883, powerfully attest to this. Given these facts, it is clear that the conjecture that the adversary puts forward as an argument is entirely unfounded. And indeed, it is true: after we recalled what those who knew Bartholomew thought of his sanctity, and what difficulties arose that prevented the consideration of the process, is it possible, even by conjecture, that anyone could justly affirm that the suspicion does not arise "that the processes were neglected, because those who knew Bartholomew, although they considered him to be most pious and worthy of praise, did not believe that his virtues had reached such a degree that he could be considered for canonization in the Church"? Therefore, it is clear that the Promoter of the Faith has been led by unfounded conjectures.

[*Latin ed. p. 401*]

401. We shall adduce observations; but, with all due respect, we shall affirm that it is impossible to find any fault there where the delay of the process, or its prolonged duration, has not diminished any negligence. "How-

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ever, the fault of negligence or carelessness can be attributed to the Postulators of the Cause," said the Promoter of the Faith at the beginning of this observation. Why, I beg you? Because, according to his judgment, this subsidiary proof is not, in its own nature, perfect. And first of all, he says, "The ordinary process... contains only a few testimonies heard." But this assertion is false and far from the truth. Indeed, there is an abundance of testimonies and depositions, so that the witnesses number thirty-five, and the depositions nine; can it be said that few testimonies were presented for the ordinary process? If, however, in such a multitude of testimonies and depositions, not all of them are equally significant and complete, this is almost always the case, due to the very large number of people who are called to attest to a certain truth. There are, of course, some who are more illustrious and more complete than others in the process; thus, they are received and considered with greater weight, so that for the matter to be asserted, there is an abundant and clear testimony from the majority of witnesses, all of whom, taken together, provide that perfect proof which could never have been obtained to demonstrate the sanctity of life, the virtues, and the miracles of Bartholomew of Monte, if it had been attempted in any other way. In no way does the Promoter of the Faith seem to notice that our document "has already been published in print, others have been written privately, and still others, either signed or without any signature, and several letters, which were written in the lifetime of the Servant of God." I ask: are not all these the very things that constitute the material for investigation? This is confirmed by the very words of Pope Benedict XIV, who writes as follows: "In causes of Beatification and Canonization, the rights that are enforced consist mostly in histories, whether published or manuscript, in writings composed by the same Servants of God, etc." *Opera*, vol. II, chap. III, no. 2. There is nothing further to say about this observation, except that the Promoter of the Faith has wrongly cited the decree approved by Pope Innocent XI. And indeed: that decree, confirming another decree of Urban VII, orders that extrajudicial testimonies should not be taken from the *Acta*, vol. XXIII, page 267.

[*Latin ed. p. 402*]

402. A response may not be obtainable, or, even if obtainable, it does not provide any degree of proof, nor can it be included in proceedings, whether conducted with ordinary or apostolic authority. Indeed, with regard to our case, no extrajudicial testimonies have been requested; no extrajudicial testimonies, whether sought or obtained, have been presented, either by themselves or by others, so that an ordinary proceeding could be initiated based upon them. Furthermore, all the documents presented to the judges of the cause by the Postulators were taken from the very archives of the Pia Opera Missionaria, founded by the Servant of God; and therefore, they were deemed admissible in the ordinary proceeding, which, with the

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affirmation of the Promoter of the Faith, leaves nothing lacking in terms of form, because they did not contain any illegal extrajudicial documents. Moreover, to the aforementioned decree, the words of Benedict XIV are added, commenting on it. For Benedict XIV, referring, as was fitting, to his own discourse concerning extrajudicial testimonies, whether sought or obtained, recalls that "it is the practice of the Sacred Congregation that, if extrajudicial testimonies are found included in any proceeding, the validity of the proceeding should be approved, if legitimate grounds concur for it, but with the clause 'excepting the extrajudicial testimonies'." *Op. cit.*, Book II, Chapter XLIX, n. 21, and rightly so. But these words do not pertain to us; for we have always and will always deny that extrajudicial testimonies, of which the decrees speak, were included in the ordinary proceeding completed concerning the venerable Saint Bartholomew Dal Monte. Furthermore, the most learned Promoter of the Faith again defends his judgment regarding the documents that were deemed admissible. "Moreover, the weakness of these documents is demonstrated by the very judgment of experts." Furthermore, the judgment of the experts was that the documents, which were presented to the Postulators in the cause, were taken from the archives of the Mission Opera. But what is the meaning of the declaration of the experts, that it can demonstrate the weakness of the documents, according to the opinion of our opponent? "This," he says, "is not the method by which the expertise of characters should be carried out. For it is required, after a careful examination of the writings, that the experts declare 'that, according to the expertise of the art,..."

[*Latin ed. p. 403*]

AD ANIMADVERSIONES 403: "Credere scripturam esse huius aut illius auctoris, et conscriptam fuisse hoc aut illo tempore, reddita ratione cur ita dicant et ita sentiant." *Lib. II, cap. LH, n. 3.* Si vero ad comparationem characterum pertinere possit, praeterea, exiguntur "ut scriptura, ad quam fit comparatio, sit omnino certa." *Ibid. n. 5.* Atque non recte argumentatio haec Reverendissimo Fidei Promotore urgetur. Id vero ex ipsa Benedicti XIV auctoritate evincitur, quam ipse contrarios afferre contendit. Et requidem vera: ipso in loco, ad quem appellat Fidei Promotor, nempe *lib. II, cap. LII, num. 3*, Benedictus XIV distinguit duplicem rationem, quae scripturarum compulsandarum fieri possint, quarum alteram ponit in proprie dicta comparatione manus et characterum scriptoris, alteram in testibus adhibitis, non titiantibus manus scriptoris alicuius. En Benedictina verba: "Octavo, cum contingere possit ut scripturae, quae debent compulsari, recognoscipossint vel per comparationem, vel per testes habentes notitiam manus eius qui scripsit, in hoc etc." Iamvero, quae ratio recognitionis ita est aperta in documentis exhibendis pro compulsione processus "Dat Monte"? Hanc alteram profecto, nimirum quae procedit per testes habentes notitiam manus

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eius qui scripsit. Testium vero affirmatio habentium notitiam manus eius qui scripsit, evidenti traditione consignata, nullus temporis spatium fuit interrupta, a quo inde verum constituit historicum testimonium, cui peritorum assertio iure valide innititur. Huc accedit quod laudata documenta testatur periti se omnia deprompsisse ex tabulario Operae Missionum Dal Monte. Iamvero in foro "nostro semper obtinuit ius ut documenta ex publicis vel exprivatis tabulariis desumpta, dummodo alia non desint, quae prudentem negandi vel dubitandi argumentum inducant, semper fidem faciant ad constituendum gradum probabilitatis authentiae scripturae in processo compulsandarum." Iterum audire est hoc differentem Benedictum XIV: "Porro regula generalis est, ad effectum, ut scriptura compulsanda admittatur ad constituendum gradum probationis, desumidebere vel a publico archivio, vel ab archivio privato, per peculiares tamen custodes custodito, et dummodo non desint adminicula, quae fidem scripturae concilient." *Lib. et cap. cit num. 7.*

[*Latin ed. p. 404*]

404. RESPONSE. From what has been said, it is clear that the response must be made to the other objection raised by the Advocate for the Faith: "If, indeed, it is necessary to compare characters, then, besides other things, the law requires that the writing to which the comparison is made must be entirely certain." We have already stated that the recognition of the hand and the characters of the writing has not been achieved by our experts through the method of comparison, but rather through the aid of legitimate witnesses; and these witnesses, whose testimony should certainly not be disregarded, were heard by the experts in that historical testimony, having all the means necessary to establish moral certainty. Among the documents presented to the Postulators, it is worth noting the aforementioned commentary on the life of the Servant of God, published by Peter Franchi in 1845. The Advocate for the Faith objects, citing the words of Benedict XIV, which state: "As for the recently published life, it must be said that it is not sufficient to establish a legitimate basis for the fame attributed to him, unlike what has been done by some approved author in ancient times." He then adds the following words from Benedict XIV: "Therefore, although these histories have been reviewed by Ordinaries, with the advice of theologians, and although the Apostolic See has permitted them to be published, without the permission to be printed, the general decrees of Urban VIII establish that they do not constitute a higher degree of approval for the cause of beatification than they would have constituted without such approval, no matter how much time may pass." Book II, Chapter XL, paragraph 8. But do these words of Benedict XIV prove the point that the Advocate for the Faith seeks to demonstrate? Certainly not. This is evident from paragraph 9 of Chapter XL of Benedict XIV. For, as we have already said, after the words that the opponent cites from Benedict XIV in support

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of his argument, the following words are immediately found: "But, indeed, it would be necessary to say otherwise, if the life had been written by some approved author, even if recent; if nothing were found that was not in conformity with what has been presented and proven in the proceedings; if serious men had not only approved the work, but had also carefully examined it in connection with the proceedings, etc." But these additions are certainly not lacking in our historical account, written by a man of unquestionable integrity and worthy of all trust; who, although he did not derive the information in his commentary from the proceedings, because the proceedings were not yet completed, nevertheless had access to documents that he consulted, especially the living witnesses, who, having been in contact with the Servant of God, or having known him personally, -

[*Latin ed. p. 405*]

To the objections: Those who have heard the objections have been astonished. Indeed, this matter is of such great importance in our history, that I believe nothing further is needed to strengthen faith concerning what I have narrated in my commentary. It is necessary to hear again what Benedict XIV said more fully elsewhere, while discussing this very question: "Finally, if historians possess the necessary qualities and agree with witnesses of what they have seen, they are certainly to be considered as having a valid support for miracles, or for virtues, or for martyrdom, in cases in which direct proofs are not necessary; and this is admitted by all; and it is favored by the practice of the Sacred Congregation, which, when expediting letters of remission, is accustomed to also expedite documents which are useful, so that archives and historical records and relics pertaining to the matter may be brought forth and inserted in the process; which would certainly be superfluous, if historical documents were not to have at least some validity as a support." *Op. cit.*, Book III, Chapter VIII, number 6. It should be noted that, if the words of Benedict XIV are valid when speaking of martyrdom or of miracles and virtues as proofs, how much more so should they be valid when there is discussion of the sanctity of life and of the virtues and miracles of a Servant of God? It is far from the truth to assert that the commentary written by Peter Franchi is full of exaggerations; rather, the book should be praised, because it was written by a learned and prudent man, who follows the history of the Servant of God so carefully, that he never deviates from the truth, and never affirms anything that cannot be verified by accurate documents and testimonies, which are commonly available. And this applies to that oration and panegyric delivered at the funeral of the Servant of God. The author of that oration was that most distinguished man, Abbot Preti, a man who is truly worthy of the highest praise for his integrity of character, his learning, and his authority. These qualities certainly enabled him to speak and to write eloquently. Finally, the Promoter of the Faith addresses the witnesses, and contends that their

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statements do not constitute a perfect proof in their own right. Why? Because, as a rule, they are not witnesses of what they have seen, but of what they have heard. Furthermore, it is asked whether witnesses of what they have seen are necessary in a cause concerning the death of a Servant of God, which is undertaken a century after his death.

[*Latin ed. p. 406*]

406. In responsione, non est necesse ut iterum verba Benedicti XIV repetam, quae affirmant ordinariam processum fuisse dolo malo, aut culpabili negligentia, donec testes de visu nulli superessent (Lib. III, cap. III, num. 25). Sed, ut supra probavimus, nullum dolum, nec ullam negligentiam fuit in differendis processibus Bartholomaei Dal Monte. Nec est verum quod testes, qui pro causa nostra adducuntur, omnes proptermodum ex auditu sunt. Sufficit enim uno oculorum ictu catalogum testium decurrere, ut illico pateat inter quatuor et quadraginta testes, plures connumerari, eosque illustres ac clarissimos, qui de auditu simpliciter sunt. Quoad illos vero qui de auditu auditus sunt, quid prohibet quin ii legitimi et gravissimi existimentur, quando adiunctis omnibus commununtur ad plenam fidem faciendam? Talibus autem adiunctis communiri testes nostros etiam de auditu auditus, nos iure nostro defendimus. At vero, Fidei Promotor negat talia esset testimonia, ut in suo genere inde perfecta probatio surgeret. Primum, quia lacōnicas sunt rerum notitiae, quae ab testibus colliguntur; deinde, quia inter testes non sunt qui non ad vigentem traditionem appellant, sed potius, inquit Adversarius, pro sua scientia et causa iam memoratum adducunt vitae commentarium. Affirmat quidem Censor lacōnicas esse rerum notitias, quae ab testibus colliguntur; abstinet autem ab probando ad serto. Qui vero probare posset, cum habeat agmen illud consertissimum quatuor et quadraginta testium, qui non modo impulsi, sed etiam saepe singillatim considerati, tot afferunt rerum notitias, quot in processu ordinario pro fama sanctitatis et virtutum et miraculorum in genere probanda desiderari vix potuisset? Sed iam ad alteram obiectionis partem veniamus, ad eam nempe, qua contenditur, testes nostros pro sua scientiae causa non ad vigentem traditionem, sed ad commentarium vitae a Petro Franchi conscriptum appellare. Porro, in prima et sequentibus paginis Summariitestium, catalogus nobis est prolatus, ibique pro unoquoque teste causam scientiae diligenter indicare studuimus. Videre autem ibi est utrum causa scientiae testium traditio sit, an commentarium memoratum. Probatum est profecto singulos et omnes non a commentario, sed a vigente traditione, testimonia sua apertissime derivare.

[*Latin ed. p. 407*]

407. And those particulars which the adversary has most diligently sought out here and there, do not stand in the way of the truth. We do not

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concede, although this matter is of little importance in this place, that there are even a few witnesses who, as they claim to have seen, are reported in the summary; on the contrary, there are many, especially considering the considerable interval of time that elapsed between the death of the Servant of God and the commencement of the canonical process. Furthermore, those who claim to have seen, are not permitted to indulge in conjectures when reporting their own knowledge in this cause. And indeed, as the Defender of the Faith proves, have the witnesses indulged in conjectures when reporting their own knowledge in this cause? For, among others, two are found, one of whom says: "The Lord Cavallari lived for a long time, and therefore he should have known the Servant of God." But that he should have known is not a conjecture that affects the cause of knowledge of the witness; for, whether the Lord Cavallari knew Bartholomew, or whether he did not know him, it is always true that he was a legitimate source of tradition; and this is the direct cause: and in this regard, no conjecture has any place. Similarly, the Defender of the Faith claims that the other of the two witnesses indulged in conjectures, namely, witness X, because he used the same words as another person who lived longer. "But," adds the Promoter of the Faith, "there are those who were present when the Servant of God was spoken of, and who were unable to retain anything in their memory." Perhaps, hearing this, you might think that the adversary would confirm his objections with many examples taken from the testimonies presented in the process. But, on the contrary, he does not offer any other testimony than that which witness XVI presented. Does not this abundance of witnesses, such as is certainly present in our process, allow us to set aside this single witness, if it were necessary, without any cause for our action? But indeed, that witness must not be removed from the number of the other forty witnesses. And indeed, what do those words mean, "she was dead before me, at the age of ten years"; and therefore, could she have preserved a good memory, and could she be believed in what she said? It means only this: because she was still a young girl, and because she often heard her own mother speaking about the Servant of God, she did not, of course, pay attention to everything, nor did she retain everything in her memory, nor did she retain all the instructions.

[*Latin ed. p. 408*]

408 RESPONSE. The witness denies [the allegation]. Furthermore, the witness, although of tender years, states that he has heard and understood, and that he remembers with the utmost clarity, as I may say, the matter in question, so that a great praise of the sanctity of Bartholomew of Monte, as it were, is expressed.

CHAPTER SECOND. Regarding the Defamation of Sanctity. The Promoter of the Faith cites from the writings of Benedict XIV, book II, chapter XXXIX, number 7, a definition of sanctity, to which we gladly subscribe.

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Having presented this definition, the adversary argues as follows: "But does it not sufficiently appear from the testimonies presented that there exists an opinion of this kind, which is founded on and sustained by heroic acts of virtue? If you examine a summary [of the evidence], you will find nothing there but brief propositions from the witnesses, which the Advocate has diligently collected, as if a bee collects honey, and which, moreover, relate to various acts of virtue." However, I maintain that it is not the case that the testimonies presented do not sufficiently demonstrate that opinion, which is required to prove the sanctity of Bartholomew of Monte. I concede to the excellent adversary that he has not placed anything in comparison [to the evidence]. For whoever should examine the summary even briefly will find not brief propositions from the witnesses, but long and always sufficient statements, which most appropriately refute [the allegation]. And it cannot, indeed, be said that any witness's response relates to various acts of virtue, if it happens that the same response, spontaneously, demonstrates the same acts of virtue. And who would be to blame if this should happen a few times, and it is observed in our case? Certainly, nothing is detracted from the evidence, nothing is diminished from the force of the argument. But, let us put this aside, what then would be the disadvantage in our case, if the same testimonies were to prove both the faith and the charity of Bartholomew of Monte? Charity is the explanation of the germ of faith, and among all the external acts by which faith can be manifested, the act of charity is undoubtedly the most noble. The most learned Scacchus aptly applies this to our case: "If, therefore, faith without works cannot save anyone, it clearly follows that the mark of true faith, which saves a person, must be sought from good works after baptism; and from these good works..."

[*Latin ed. p. 409*]

"Regarding the external manifestations of faith, which are required for the canonization of a servant of God, it must be demonstrated primarily through works that proceed from charity and which possess all the virtues in a heroic degree." (De not. et sig. Sanet. Sect. 7, cap. I, page 178). Furthermore, St. Benedict himself teaches: "Therefore, the faith is proven by the works that are formed from charity towards God and neighbor, according to the words of the Apostle James in his epistle, chapter 2, where he concludes in verse 26: 'For as the body without the spirit is dead, so also is faith without works dead.'" (Op. cit. lib. III, cap. XXII, num. 2).

Given these points, another objection is also resolved, which the most learned adversary raised with these words: "Do the witnesses generally attest that the Servant of God displayed zeal in performing sacred missions? This argument demonstrates the act of faith."

Indeed, not only do the testimonies, which refer to the zeal of the Servant of God in performing sacred missions, demonstrate his faith, but, as we have already noted, from these testimonies, the faith of the Servant of God

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is clearly evident. And this is indeed most fitting: for, as St. Benedict rightly stated, "the faith is proven by the works that are formed from charity towards God and neighbor." But, of course, the works that reflect zeal for souls are the greatest argument of charity, both towards God and towards men.

If only two witnesses have been brought forward in the summary who attest to the faith of the Servant of God, either in prayer or in speech, it is not only that these two witnesses simply offer this testimony. For it is evident that there are other testimonies, and those are very clear, which have been written down by other witnesses. But, of course, these testimonies are also authentic and recognized, and they have been legally included in the process by the authority of the ordinary.

Regarding the cardinal virtues, the Promoter of the Faith notes: "In the section on prudence, no witness's words can be found, but only certain excerpts from the Commentary are present, especially those concerning prudence."

However, what could be argued against this? Indeed, if the adversary wishes, he can call for the documents, authentically processed, but the mere mention of excerpts from documents cannot deprive them of the authority of testimony, which they rightfully claim after having been legitimately included in the process.

But, the Censor says, "witnesses are presented to support justice, and this is precisely what God and the Church command to be done diligently."

[*Latin ed. p. 410*]

410 RESPONSE: "He maintained [his obedience]." I reply that, if this were the only point in question, our defense would already have been established. For, he who diligently observes the entire law of God and the precepts of the Church, it is necessary that he attain to perfect justice; for perfect justice is certainly contained in the law of God and the precepts of the Church. However, in order to provide a more complete answer to the objection raised, we ask the accuser to state whether he asserts that the witnesses presented by us testified only that Bartholomew Dal Monte diligently observed the precepts of God and the Church. Indeed, witnesses 1, 8, 11, 16, 17, 29, 30, 31, 32, 35, and many other witnesses, all of whom are entirely in agreement, do not, in addition to stating that the Servant of God observed the law of God and the precepts of the Church, also affirm that he observed even the obligations and duties pertaining to his own state? This is almost a perpetual formula by which the justice of the Servant of God is demonstrated. Regarding fortitude, the Advocate of the Faith is surprised that witnesses should speak of the zeal of the Missionaries. But this surprise is quite misplaced. Indeed, although the witnesses do not explicitly affirm the zeal of the Servant of God in performing his missions, they speak of his zeal in such a way as to demonstrate the firmness of spirit and

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unwavering constancy of Bartholomew in carrying out his missions. But it is possible, and indeed it is necessary, to demonstrate that he possessed the heroic virtue of fortitude, as Pope Benedict XIV explains: "Fortitude can be defined as that virtue by which the mind is strengthened to undertake or endure things that are conducive to its own betterment." *Liber III, cap. XXIV, no. 28.* The Angelic Doctor wonderfully agrees with this doctrine, who, in *2, 2, quaest. 123, art. L*, treats of fortitude strictly understood, and as a special virtue. Furthermore, after teaching that fortitude is the virtue of a man that makes him good, and renders his work good, he also teaches that fortitude is demonstrated insofar as the human will does not cease to act, even in the face of those difficulties that could impede the same will. Given this clear and perspicuous teaching of so great a Doctor, we are surprised that the Censor should be surprised that witnesses should speak of the zeal of the Servant of God in performing his missions. Indeed, as we have said, these witnesses speak of the zeal of the apostolic man, but they speak of his zeal in such a way that they demonstrate that he was never weary of his labors, that he did not cease in the face of human injuries, and that, even with his weak physical health, he did not yield to quiet.

[*Latin ed. p. 411*]

414. He may have been able to persevere, not having interrupted his work for a long time, and not being deterred by all difficulties. Regarding the virtue of temperance, he seems to cite witnesses 5 and 6; the first gives testimony that Bartholomew did not serve his own desires; and the second affirms that the Servant of God was a man of great piety and mortification. Furthermore, that these testimonies demonstrate precisely what they are intended to demonstrate, is evident from the common teaching of the Doctors, and especially from St. Thomas, who teaches that the will of man can be hindered from acting with due reason by some action to which the appetites of man are drawn: in the victory over true impediments, the virtue of temperance is manifested. In 2-2, question 123, article 1. Indeed, it is commonly asserted that the Servant of God achieved such a victory: for he rejected all occasions of gain, even the most honest ones, and he rejected all pleasures of life with mortification. "But what specific acts of those virtues do we seek from him, which he did not know, nor had heard from others, whether Bartholomew observed the commandments of God and the Church? But almost all of them conjecture or suppose it." This is the argument in the twenty-first animadversion. But this argument completely fails due to the most obvious contradiction, I say, it falls against itself. For, consider: let us compare this twenty-first number with the twentieth. There, the Censor complains that the witnesses, in supporting the justice of the Servant of God, only refer to the fact that he diligently observed the commandments of God and the Church. But if the Promotor of the Faith admits in the twentieth number that the witnesses refer to the Servant of God dili-

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gently observing the commandments of God and the Church, how could he, in the immediately following number, assert that the witnesses were ignorant, and had not heard from others, whether Bartholomew observed the commandments of God and the Church? Moreover, it does not agree with truth that almost all of them conjecture or suppose it, when they are asked whether Bartholomew observed the commandments of God and the Church. For, almost all the witnesses are certain and clearly testify to the diligent observance of the commandments of God and the Church. The Promotor of the Faith contends that he can prove that the Servant of God exercised virtues. Do you wonder at this? He has an argument ready for himself. For, he says, there are witnesses who are ready to prove it.

[*Latin ed. p. 412*]

412. RESPONSES: Some are brought forward, others are ignorant of the matter, still others resort to the commentary of Peter Franchi. However, this argument is by no means sufficient to prove the assertion that the most humane censor wishes to demonstrate, since it is based on false premises. Furthermore, it is not the case that all witnesses, in general, either suppose, or are ignorant, or resort to the commentary of Peter Franchi. For, generally speaking, almost all those whom our adversary has presented are not testifying *for* his assertion, but *for* our cause. Indeed, witnesses must be compared with each other. Now, if these are compared, it will become most clearly apparent that it almost always happens that those who, in one interrogation, have given less explicit testimony regarding a certain matter, will affirm the same matter more fully and clearly in a subsequent interrogation. Moreover, it happens that some witnesses are found who, as it were, respond with hesitation, regarding the virtues exercised by the Servant of God. It is not, however, permissible to doubt that the Servant of God exercised virtues in general, but rather, the doubt pertains to a particular virtue or object of virtues. It is certainly not permissible to conclude that the testimonies cannot prove the virtues in general. But the Promoter of the Faith, after having, in objection 21, denied that it is possible to prove that Bartholomew Dal Monte guarded the precepts of the Church, and in objection 22 and the following, argued that it is not possible to prove that the Servant of God exercised virtues in general. Thus, his entire argument collapses, because he goes beyond the field in which he ought to have remained. But, the other witnesses, says the adversary, "protest that they" cannot add anything particular about this matter. But who are these witnesses? The Promoter of the Faith mentions only one witness, namely, witness 15. Indeed, from these words that witness 15 brings forth, it is manifest that, if he denies knowing something for certain, he understands something about a particular virtue and its specific actions. No other response is due to those things which the Promoter sets forth under number 23 of his objections. For, from the fact that some witnesses have

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responded in the interrogations that they could not affirm anything about what was asked of them, it would be most illogical to conclude that they are ignorant regarding the reputation of sanctity and the virtues in general of Bartholomew Dal Monte. Indeed, the testimonies of such witnesses are of the greatest importance, and cannot be prudently refuted or corrected. But it certainly does not follow that such testimonies should be extended to all particular matters about which information may be desired.

[*Latin ed. p. 413*]

413. Regarding the objections concerning the proof of the sanctity and virtues of the aforementioned Servant of God. It is well known that, in order to establish a fact, it is customary to present multiple witnesses who corroborate and complement each other, so that the proof is complete from all the testimonies taken together. Now, we must address the objection raised concerning the reputation of miracles attributed to the intercession of the Servant of God. Indeed, as the Censor reminds us, "according to the teaching of Benedict XIV and the constant practice of the Holy Roman Church, in order to establish the cause [for canonization], besides the reputation for virtues, a common estimation of miracles worked through the intercession of the Servant of God is also required." However, the opponent claims that these witnesses regarding this reputation declare that they know nothing about it. To demonstrate this, he often extracts passages from the testimonies presented by the witnesses and compiles them, thereby attempting to undermine our demonstration by the sheer number of testimonies. But this is not the case. Firstly, let us grant that all and each of the witnesses presented by the Promoter of the Faith profess that they know nothing about the reputation of miracles attributed to Bartholomew of Monte. Does this contradict the truth? Not at all. For to know something does not necessarily mean to affirm or deny it. But the ignorance of some witnesses regarding the reputation of miracles worked through the intercession of the Servant of God is abundantly compensated by the certain knowledge of many other witnesses, who explicitly affirm that they have testified to these very miracles. But is it true that all the witnesses presented by the esteemed Promoter of the Faith have declared that they know nothing about the reputation of the Servant of God? We grant that some of them may have been ignorant of this reputation; and there is no harm in this for our cause. But we deny that all of them have completely ignored this reputation. Therefore, since it is not true that all the witnesses presented by the Promoter of the Faith in his objection profess their ignorance regarding the miracles of the Servant of God, it is clear that we must not base our argument on those who are ignorant, but on those who clearly know the reputation of Bartholomew of Monte. Thus, it remains to be said that this twenty-fourth objection contains no valid argument against our cause. Regarding the healings of Angel Cappucci, Thomas Dazzani, and others,

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which have been challenged by the Defender of the Faith, the advocate has presented many arguments to prove that these were truly the work of the intercession of the Servant of God.

[*Latin ed. p. 414*]

414. RESPONSE. And the Advocate continues: I believed it proper to respond to the Censor regarding the subject matter, although I might entirely overlook the particular and intimate question of miracles in this place, and I am justified in requesting from the Most Reverend Fathers that they not refer this matter to a doubt regarding the introduction of the cause, but rather to the question of whether and concerning which miracles the cause is to be considered. However, adhering to the traces of your observations, we have proceeded to the examination of the miracles attributed to the intercession of the Servant of God, as proposed by the Promoter of the Faith, in order to defend those miracles, for the Promoter of the Faith most vehemently desires that the examination of them, and not merely their consideration, be eliminated from the initial cause. But here, allow me to briefly state that no question concerning miracles should be feared in this cause. For we have many miracles obtained through the intercession of the Servant of God. But the time has come to set aside the question of miracles as a temporary matter. However, I will cite certain authorities of our most esteemed masters that greatly assist our inquiry. "Indeed, miracles wrought after death through the intercession of the deceased demonstrate his sanctity, and they present a certain and divine sign of sanctity," – Benedict XIV, *lib.* IV, *cap.* V, no. 4. – "For they have said that the testimony of miracles is a proof of life, and that, together with the reputation of virtues in the heroic degree, it suffices for the introduction of the cause," – *loc. cit.*, no. 10. But the Promoter of the Faith introduces a supernatural element. He first objects: that the fact attributed to the Servant of God in the summary is doubtful, namely, whether it truly happened to Bartholomew Bal Monte, or rather, to Leonardo of Porto Maurizio. But that fact did occur. The Servant of God was preaching in the middle of the field, when, suddenly interrupting his sermon, he affirmed that the souls of sinners were falling into hell, like leaves from a tree, which he himself had touched: and immediately, as all were watching and marveling, those leaves fell. However, our Censor demonstrates that there has been and is controversy regarding this matter, from the words of two witnesses, namely, 17 and 60. But with regard to witness 17, it cannot be said that his testimony has remained without controversy. If one reads it carefully, which the adversary neglected to do with due diligence. Furthermore, the aforementioned fact has the most serious confirmation from the postulatory letters of the Archbishop of Fermo. These letters, moreover, narrate the fact in a laudatory manner, as if it were

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something that...

[*Latin ed. p. 415*]

415. Within the boundaries of the Archdiocese, there occurred events that ought not to be forgotten by the people. Furthermore, when the Advocate of the Faith seeks to demonstrate that nothing supernatural occurred concerning Bartholomew of Monte, he selects four or five witnesses, and in the testimonies they offer, I find nothing that I know about this, and other similar things. It is sufficient to observe that not four or five witnesses are available to us, but many, and those most eloquent, who speak of supernatural gifts of the Servants of God. Therefore, I do not see why the tables of the Summary should be said to refer only to prophecy, which can be adapted to all times, when, as in many other instances, the Servant of God once foretold the death of a certain woman, and then that woman reported something. Did not the Servant of God, while preaching to the people one day, foretell that there would be no rain from the heavens, even though a storm was brewing, so that all who feared the rain might flee? He even foretold his own death the day before his demise, a prediction that was not refuted by events. Finally, the Censor argues that, if anyone were to accept these witnesses, indeed, they indicate the year and place in which Bartholomew of Monte died, but nothing is found in them that demonstrates the precious death of the Servant of God before the Lord. To prove this, he presents four or five witnesses, whom he affirms did not at all narrate anything about the precious death of our Bartholomew. First of all, I observe that it is not proper to bring forward the Advocate of the Faith as a witness. For this witness does not favor, but rather is opposed to the clear words of our adversary. As for witnesses U, 21, 22, and 23, let us suppose that they do not narrate anything particular about the precious death of the Servant of God. But what then? Does this mean that they deny that it was a precious death? Do they testify to anything, either by deed or by word, that would suggest that the sanctity of the Servant of God diminished at his exit? They affirm that they are ignorant. Moreover, while these four aforementioned witnesses claim to have been ignorant, other witnesses asserted that they did know. From all of this, it is clear that we do not lack the testimonies needed to establish the precious death of the Servant of God.

[*Latin ed. p. 416*]

416. Let it be shown, by the clearest exhibited testimonies, that the renowned reputation of the death of Bartholomew Dal Monte is abundantly asserted and confirmed. For we are persuaded that it is a great matter for our cause that the death of the Servant of God, Bartholomew Dal Monte, should be considered. And we understand that it is of the utmost importance to examine the life of that individual who is being petitioned

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for canonization. As Benedict XIV teaches, ”reputation of sanctity is nothing other than the estimation or common opinion concerning the purity and integrity of life, and the virtues, not as if they were occasional, but by continuous actions, exercised above the common measure of other virtuous men or women, by some Servant or Servant of God already deceased, and also by the miracles obtained through their intercession by God; so that it is conceived in one or more places, and devotion is given to it, and many invoke it in their necessities, and are judged worthy by the judgment of many grave men, to be presented by the Apostolic See for inclusion in the list of the Blessed or Saints.” *Op. cit.*, Book II, Chapter XXXIX, number 7. But the reputation of sanctity of the Servant of God, Bartholomew Dal Monte, is clearly evident from the entire ordinary process, and therefore from the Summary, and especially from those numerous and most serious postulatory letters which are appended to the Summary. To the question of whether we will judge the reputation of sanctity of Bartholomew Dal Monte, if any, to have arisen from probable causes, we respond with the very same reason, which is indeed obvious, but most serious, which Pavinus in the relation of the cause brought forward, and Bonaventure, part I, article 19, wrote: ”That reputation is to be more carefully considered, because even after death, this continues to persevere for a time; therefore, it must be said to have come from the Holy Spirit, for what is not from it, does not endure.” However, as the *Promotor Fidei* asserts, the vulgar reputation of sanctity of our Bartholomew is confused with a lesser true reputation of sanctity. And neither this, nor anything else, can in the least weaken what the adversary opposes, as it is promised in testimony 17. Indeed, what is in the words of this witness, which is contrary to our cause? The witness says that he does not know, and therefore cannot affirm. But he who does not affirm, and who otherwise supposes, does indeed deny. But what the witness 17 only supposes, many other witnesses affirm most clearly.

[*Latin ed. p. 417*]

417. Regarding the Objections: The Defender of the Faith maintains that the reputation for sanctity of the Servant of God was not universal, nor widely spread, nor did it flourish among the greater and more sound part of the people. To prove this, he adduces words from witnesses 2, 2, and 3, 1. But here, the censor has mixed together things that are most distinct. And indeed, what was the adversary attempting to demonstrate in this his objection? Only this: that in our cause, the reputation for sanctity is lacking, because it was neither universal, nor widely spread, nor did it flourish among the greater and more sound part of the people. On the contrary, when he presents his proof, he seems to intend to speak only of the lack of devotion. For it is of devotion that the words from the two witnesses cited above speak. But to speak of devotion towards a certain

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Servant of God is not the same thing as to speak of his reputation for sanctity. Indeed, the reputation for sanctity is a substantial and necessary condition for the validity of any act of canonization of a Servant of God, so that, if it is lacking, all validity of the act of canonization vanishes. On the contrary, devotion is one of the arguments by which the reputation for sanctity can and should be proven. And this reputation for sanctity, as far as the ordinary process is concerned, has been sufficiently proven and defended for Bartholomew Dal Monte. Moreover, neither of the two witnesses, allied with the Defender of the Faith in this objection, attacks or even undermines the reputation for sanctity. As for devotion towards the Servant of God, it must first be noted that it is not required to be as universal and as widely spread as the reputation for sanctity must be. But we are speaking of devotion in its stricter sense. Now, if we speak of devotion in a broader sense, which is to say, in the sense of esteem and sincere reverence of the mind, then it certainly must be more widespread, so that it may reach all, as the reputation for sanctity does. But it is clear from the context of their testimony, and from the very words of the two witnesses 2, 2, and 3, 1, that they spoke of devotion in its strict sense, distinguishing it from the esteem and reverence, especially in Bologna, which they assert is universal, and from the strict devotion, which is limited to a few men and women, as far as they can ascertain. The same must be said of the other testimonies that the adversary seems to have diligently gathered: indeed, the Defender of the Faith himself asserts, Volume XXIII, page 271.

[*Latin ed. p. 418*]

418. IN ANSWER to those who allege that there are few witnesses to the widespread devotion to Bartholomew of Monte, I say: Even if there are few witnesses, this does not necessarily mean that that devotion is lacking, nor that the witnesses themselves have impugned that devotion, nor that true devotion to the Servant of God does not exist. For, as we often observe, not all witnesses can know everything, and what one is ignorant of, another may know and testify. Indeed, many witnesses testify to the devotion to the Servant of God; they testify to miraculous events obtained through his invocation and intercession; they testify to numerous and weighty letters of petition, filled with ardent zeal, which have been presented to the Supreme Pontiff. On the other hand, it is true that there are witnesses who claim to be ignorant of the location of the Servant of God's tomb, or whether they have ever visited it, or whether others visit it; but this, in itself, presents no obstacle to our cause. "For," as the words of Benedict XIV rightly observe, "interrogatories should be conducted in such a way that the witness is questioned about his own access to the tomb, as well as that of others." *Op. cit.*, Book II, Chapter XXXIX, paragraph 10; but it is by no means required that the number of people visiting the tomb of the Servant of God be so great, so universal, and so solemn, as if the Church had already pronounced its

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judgment on the sanctity of that Servant of God. Therefore, it is possible for the cause of the Servant of God to proceed without detriment, even if not all those who otherwise hold the highest opinion of the sanctity of that Servant of God visit his tomb. This is true for all servants of God, even the most holy, who have not yet been enrolled among the Blessed. And it is not surprising that this should also be the case with the tomb of Bartholomew of Monte. Therefore, we must consider the testimonies, even those that do not deny the lack of others, but only the lack of their own presence at the tomb of the Servant of God, and we must present other testimonies that clearly and clearly testify to the presence of others at the tomb of Bartholomew of Monte. Given these circumstances, there is no reason to bring forward the authority of Benedict XIV to the contrary. Indeed, the authority of the Pontiff should not be an obstacle to us, but rather it should be of the greatest benefit. And although it may be true that the cause of our Servant of God cannot be judged beforehand by the lack of a large number of faithful visiting the tomb of Bartholomew of Monte.

[*Latin ed. p. 419*]

TO THE REPRIMANDS 419. The mountain, with its tomb, has never seen such a gathering, nor has it ever been so crowded. It is truly an unfounded and historically unsupported assertion that the Promoter of the Faith proclaims; namely, that Bartholomew Mary of the Mountain did not flourish in that holiness which heroic virtues are wont to engender. How can this opinion, which has persisted for a long period of time since the death of the Servant of God, which has endured in difficult and turbulent times, which has been widely spread, and which has been supported at all times by a great variety of testimonies from numerous and distinguished people, be called an opinion? Therefore, with what astonishment does one not read these latest words, which the most humane adversary writes, seeking to know where in the case of Bartholomew of the Mountain there is fame of sanctity, where, as he says, is the smoke of virtues? Regarding our matter, Benedict XIV states: "As for what pertains to the substance of the fame, and which is to be thoroughly examined, it seems that nothing else needs to be noted here, except that in order to obtain the commission's signature, it is not necessary to prove in appearance the virtues and miracles; indeed, this is reserved for the judgment of others, when, after the apostolic processes have been completed, a doubt is raised concerning the virtues and miracles in appearance; but only then is the fame of virtues and miracles to be proven." Op. cit., Book II, chapter XLI, number 13. But we maintain that the fame of the virtues and miracles of Bartholomew is fully and conclusively demonstrated by the ordinary process and all the documents presented.

CHAPTER THIRD. Concerning Obstacles. When the Promoter of the Faith impugns the proofs of the cause, and indeed the very fame of sanctity

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of the Servant of God, he then addresses a third point of objections, which he places, as it were, in certain obstacles. And first, he complains that he cannot present more obstacles because, "the writings that remain of the Servant of God," he says, "all pertain to the same praise and commendation." Therefore, at the very beginning of this third chapter, we have the adversary confessing that "he cannot present more things that truly constitute an obstacle." This, indeed, is the judgment of the Censor.

[*Latin ed. p. 420*]

420 The objection that this [matter] is not of great importance, but rather of little consequence, is incorrect; on the contrary, it is of the utmost importance, since it appears, of its own accord, to offer very little that can be objected to; indeed, the number of objections that can be raised against the Postulators of the cause [for canonization] from this point is very few. But concerning the reason which the Promoter of the Faith adds, to explain the paucity of obstacles, he himself must be considered mistaken, if he truly believes that Bartholomew Dal Monte left behind writings for us, which pertain entirely to his own praise and commendation. I will recall this one thing: that the Servant of God himself seems to have considered it necessary to include [in his writings] those who, although judged by the piety and wisdom of many men to have accomplished great deeds, nevertheless did not wish to attach their names to them. How, I ask, can this historical fact be reconciled with what our opponent presents? Can one censure the Servant of God for boasting and empty glory, when, knowing so easily that he could have become great and renowned among many, he sought to conceal himself and to remain, as much as possible, unknown among men? But, the opponent adds, "Indeed, certain passages from the writings of Bartholomew himself emerge, which suggest that he did not foster a modest estimation of himself. For when he was compelled to lie in bed because of a broken leg, he said: 'It can be said that I am preaching'; and when he saw a Lutheran in a very difficult situation, he went to him as a theologian to help him; I knew nothing; and here something came to me that I asked him to hear my confession.' If, from these words, one could conclude that he was guilty of the vice of boasting and empty glory, what then should be said of so many servants of God, who have frequently recounted, either in writing or orally, their praiseworthy deeds, as well as the most remarkable graces and gifts bestowed upon them by God? The Apostle Paul, in his second letter to the Corinthians, chapters XI and XII, recounts at length his deeds, visions, and revelations from the Lord. Again, Paul and Barnabas publicly recounted to the audience the conversion of the Gentiles and the miracles that God had worked among them (Acts XV, verse 4). In the Book of Job, chapter 29, verse 4, he does not hesitate to speak of himself in this manner: "I was clothed with justice, and I put on innocence as a garment. I was a father to the poor, and I diligently

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investigated the cause that I did not know." Similar testimonies they give of themselves.

[*Latin ed. p. 421*]

AD REPRIMANDS 421. Ezechias, having been warned by Isaias of his impending death, Isaias, chapter 38, verse 3. Also, Sara, the wife of Tobias, Tobias, chapter 3, verse 16; also, Nehemias, in 2 Esdras, chapter 5, verse 19. To these all correspond the examples of the Saints, of whose virtues many were collected by the most blessed Pope Benedict XIV in his work, *De Beatificatione et Canonizatione Servorum Dei*, book and chapter cited. The example of the most holy Abbot John, as found in Cassian, colloquies, 19, chapter 3, page 702, should be heard: "Therefore, if I should present anything more elevated, perhaps freely, I would not hesitate, lest it be judged to be prompted by the vice of vainglory, but rather by a desire for your edification: for to you, who seek so diligently, we believe that nothing should be withheld from you in truth. Therefore, if you deem that something can be imparted to you, I will, with humility, simply reveal all of my intentions, and speak the truth." St. Anthony, as testified by St. Athanasius, who described his life in chapter 68, page 846, did not hesitate to communicate to his disciples, through words, the heavenly gifts which he had received from God. "He did not wish to conceal anything from his spiritual children in Christ." And so it is with all, it must be stated with all safety: that no man can be blamed for the vice of vainglory and empty glory, simply because he has recounted or written something praiseworthy. But if, indeed, this has been done, namely, if the praise of the writer or the words themselves are pleasing to vanity, then it is easy to judge, and to pass censure. "For sometimes, as the words of St. Gregory the Great say, the holy men urge others to do good, or to recount their own deeds, but always referring everything to the true end, so that not they themselves, but the Father, who is in heaven, should be glorified." Moral. 19, chapter 33, number 4. This doctrine is that which was taught by Pope Benedict XIV in the aforementioned book, chapter 40, number 3. Now, it is easy to gather from the very doctrine of Pope Benedict XIV, how it is that a safe judgment can be made. And first, it must be investigated, what is it about which the Servant of God seems to be boasting. For if, as the blessed Thomas teaches, 2, 2, question 172, article 1, the Servant of God boasts of a fleeting and fragile glory, then he cannot be excused from the sin of vanity. "For glory can be said to be vain, depending on the thing about which one seeks glory, because whoever seeks glory is seeking glory about something."

[*Latin ed. p. 422*]

422 It is not fitting for a man to seek glory through his words, as if he were clinging to something fragile. Secondly, one must inquire into the intention of the speaker or writer concerning himself. Indeed, St. Gregory

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in the *Moralia*, book 12, chapter 31, page 405, volume 1, states: "Just as it is a grave fault for a man to arrogate to himself what he does not possess, so it is often no fault at all if he humbly speaks of a good quality that he does possess; hence it often happens that the just and the unjust have similar words, but their hearts are always very different." Therefore, when the intention of the speaker or writer appears to be such that he seeks no applause for himself, but rather aims to promote the spiritual well-being of his neighbor or to promote the glory of God in some way, and he narrates or writes something, he should not be blamed or censured. With this doctrine established, it is easy to dispel the difficulty that has been raised, so that no fault of pride or vainglory can adhere to the servant of God. And indeed, as stated by St. Bartholomew, what vice of the pursuit of glory is to be noted in the matter presented? Is the servant of God to be censured for pride because of the thing that is narrated? But the narration itself is far from fragile and fleeting, and it is not contrary to divine reverence. For what could be more solid and more worthy of esteem before God and before men than to narrate that a Lutheran has returned to the Catholic faith, and that men, through the most holy confession of their sins, cleanse themselves from the filth of their faults? Clearly, in the *Life of Bartholomew of Monte*, it does not hesitate to say that, desiring to retain him in Rome, so that he might perform some apostolic office there, the Servant of God presented certain reasons to the Supreme Pontiff, so that he might not be diverted from the intended course of his missions. I ask, what is there in that historical fact that can be judged and blamed? Certainly, Bartholomew did not injure the virtue of obedience. For the most excellent moral theologians and ascetics teach that, not only does the virtue of obedience not suffer injury if someone presents certain reasons to his superior, because he hopes to achieve greater obedience to God; but also, if he submits a different opinion regarding the task, and the superior himself adopts that opinion instead of the one he initially followed. This is indeed true, provided that these two things are present: first, that the reasons presented to the superior are offered with reverent spirit and modest words, and are not contrary to what he believes to be true in the Lord; second, that...

[*Latin ed. p. 423*]

423. He puts forward one objection: that after having humbly expressed his opinion, he nevertheless shows the greatest zeal in defending those matters which he wishes to impose upon that moderator. But, as he himself says, this is how it was with our Bartholomew, who, hoping to promote more the glory of God, devoted himself to sacred missions, rather than remaining in the city. The censor also finds worthy of censure what is read on page 53 of the *Life* of the Servant of God, written by Peter Franchi. Indeed, the Defender of the Faith does not approve of Bartholomew Dal Monte having sent a narrative to Rome from Bologna, in which he wrote

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about the events of his Roman missions. What? Is it considered blameworthy to communicate to Christians those things which are pleasing to God, and which can serve as an example of good virtue? Therefore, are the very Apostles of Jesus Christ to be blamed, who, to the first followers of the Christian name, did not hesitate to recount the things which God Himself deigned to accomplish through them? Are all those apostolic men to be blamed, who, working diligently in the propagation of the Christian Faith from the farthest reaches of the East and the West, wrote long letters to their brothers, friends, or moderators, so that they might know what they had done in the name of Jesus Christ, and what God, through their ministry, had brought to a desired end for the salvation of souls? But, the censor argues, that narrative, written by the Servant of God, is no longer such that it is clear whether it is lost, or whether it has been deliberately withheld, or whether it is still preserved by the Servant of God, or by someone else. With these words, the illustrious Defender of the Faith seems to suggest that he was able to bring forward that narrative in order to demonstrate, as an authentic testimony, the falsehood of that accusation which he judges to be entirely unfounded against the Servant of God. But who does not see the gratuitous assumption that the Defender of the Faith has devised? But it is clear that, in cases of this kind, one must proceed not with gratuitous assumptions, but with solid and firm arguments; and the decrees of the Supreme Pontiffs and the practice of the Sacred Congregation of Rites teach this most clearly. The obstacles, indeed, were not fictitious, but real. And Benedict XIV, in the work cited, book 2, chapter 36, number 13, warns that the true obstacle to introducing a cause is only that which cannot be seen with the naked eye, and which must be replaced by a peremptory exception. It is indeed necessary to have this narrative before one's eyes.

[*Latin ed. p. 424*]

424 RESPONSE: It must be noted that, concerning others, it should be considered that this [person] has been judged unfairly. Indeed, if we had before us the writings of Bartholomew of Monte, we could present a new and indeed great document of humility. Among the other virtues wonderfully extolled of Bartholomew of Monte are his prompt obedience to his superiors. From the proceedings of the Ordinary, as recorded in our summary, we find testimonies which praise the virtue of the Servant of God, and which demonstrate it. Furthermore, from these testimonies, it is easily understood what the superiors and others felt concerning the obedience of the Servant of God. However, the testimony of such outstanding obedience of the Servant of God is not pleasing to the adversary, who, at the beginning of his objections, number 35, writes: "But, above all, the obstinacy of the Servant of God seems to be reprehensible, which he demonstrated when the office of rector of the Seminary of Bologna was offered to him by Cardinal Vincent Malvezzi, the Archbishop of Bologna." He then continues

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throughout this objection, number 35, and the following number 36, insisting on this fact, in order to deduce what he had previously affirmed, namely, the obstinacy of the Servant of God in opposing the commands of his superior. But, as I will clearly demonstrate, there is nothing but empty sophistry in the adversary's argument. Indeed, it is true that, concerning the difficulties which sometimes arise against the obedience of the Servants of God, the most dignified words are those which Benedict XIV, with the greatest wisdom, wrote: "No one should fail to see that it is not to be judged rashly whether a Servant of God, who has not obeyed the precepts of his superiors, has failed in virtue, or in the perfection of obedience; but the weight of the superior's precept must be considered and discussed, before a judgment favorable or unfavorable to the action of the Servant of God is pronounced." *Op. cit.*, book III, chapter XLI, page 10. And also these words: "When we come to the rules by which the actions of the Servants of God can be judged, we preface this with the doctrine of the Theologians, who teach that, in the first act, human goodness is derived from the object, and from the circumstances, and from the end of the one acting." *Op. cit.*, book and page cited, number 1a. And this doctrine has been excellently explained by John Chrysostom; Homily 16 on the Letter to the Romans, number 1, page 604, volume 9. With these principles established, what is to be reprehended?

[*Latin ed. p. 425*]

42. Did Bartholomew Dal Monte, upon being promptly invited by the Rector to the seminary in Bologna, hesitate at all? The purpose of the Pious Work of Missions, which he himself had founded, was not merely to limit the labors of the religious workers to the Diocese of Bologna, but to extend them to all dioceses, as the needs of souls and the invitations of the bishops themselves demanded. The fruits of the labors of the Servant of God were testified to throughout Italy, while Bartholomew Dal Monte was still alive, not only by the people, but also by many of the leading pastors and ecclesiastical men throughout Italy, and even by four Supreme Pontiffs, namely Benedict XIV, Clement XIII, Clement XIV, and Pius VI. Furthermore, these Pontiffs, entrusted with the guidance of the entire Church of God, loved and commended the labors of the Servant of God, and encouraged the flourishing of his sacred missions, granting him abundant apostolic privileges and indulgences, so that he might more easily submit to the will of God and promote the well-being of the Christian people. Moreover, Clement XIV and Pius VI ordered him to come to Rome, and they entrusted him with the task of preaching, and they were not reluctant to call upon him and speak with him, and to engage in conversation with him about the affairs of the entire Church. It is clear that, if this is the case, it was not obvious that Bartholomew, when invited by the Rector of his native seminary to the position of Rector, would hesitate, fearing

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that a greater glory of God or a greater benefit to his neighbors might be hindered? Furthermore, it should not be said, contrary to obedience, nor contrary to the perfection of this virtue, that it appears to yield to a greater glory of God, and that it is left to the judgment of the moderator himself, so that whatever he may subsequently order should be considered solely as the will of the Lord. Furthermore, it is gathered from the circumstances that the Archbishop of Bologna, while indeed desiring, did not command, when he called Bartholomew Dal Monte to his native seminary. Moreover, the fact, upon which the argument of the opponent rests, that obedience does not deny or diminish the praise of God, but rather increases and wonderfully confirms it. For although the Archbishop of Bologna did not give any command of obedience, nor any other explicit order, to Bartholomew Dal Monte...

[*Latin ed. p. 426*]

426. RESPONSE TO THE IMPUTATIONS: Monte, in order that he might not suffer as Rector; although the Most Holy Defender of the Faith had not entirely yielded obedience, but rather lacked perfection, if he humbly presented reasons of greater divine glory to his superior, which he would pronounce concerning the office entrusted to him. Later, after understanding that Cardinal Malvezzi desired him not to leave, he showed himself prepared and ready to undertake that office of Rector of the Seminary of Bologna, and indeed, he immediately accepted it. And he governed the Seminary with a metal [i.e., a virtuous] priest as his substitute while he was absent. Nor does it present an obstacle that Bartholomew later requested to be excused from the office he had accepted. For, having obtained from Most Holy Malvezzi what he had so earnestly sought, and because the circumstances and the times required it, Bartholomew sent a most humble petition to the Archbishop of Bologna, in which he requested that he might transfer the office he had already undertaken. But the Defender of the Faith confesses that in this case, a few obstacles are to be found; nor does he adduce any others, besides those which we have already refuted in this third section of objections. However, a marvelous reason is presented by the Censor, in order to explain, in some way, the paucity of obstacles. "For," he says, "if in a case of necessity, arguments are lacking from which at least a general demonstration of sanctity might arise, what will be the probability of a happy outcome in this case?" It is given that few obstacles exist. But it is obvious that an obstacle is lacking in a case in which there is a complete lack of knowledge. Who will deny that the Promoter of the Faith has spoken marvelously? But, peace to that virtuous man, I say, his words are easily asserted, but not invincibly proven; on the contrary, the argument is for the cause of our goodness, against which, if we are all mistaken, a true and solid difficulty cannot arise. Nevertheless, abundant proofs abound, and there are abundant arguments, from which, as is fitting, a general demonstration

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of sanctity may arise. Therefore, confident in the proofs and arguments for goodness, and relying on the authority of Pope Benedict XIV, from whose teaching it is clear that there is nothing in our case that would hinder either the excellence and splendor of virtues, or their proof, we commit the cause of Bartholomew Dal Monte to the judgment of the Consultor Cardinals and to the unerring sentence of the Supreme Pontiff Leo XIII, and we gladly believe.

[*Latin ed. p. 427*]

427 APOSTOLIC LETTERS. Concerning the renewal of the discipline of the Anglo-Benedictine Congregation, from the Most Holy Father Leo XIII.

LEO, BISHOP, SERVANT OF THE SERVANTS OF GOD, for the perpetual memory of the matter, to the Religious Order of Saint Benedict, which has deservedly gained great merit, both for the Church and for the commonwealth, among many nations, and especially among the English. — In the sixth century, Saint Gregory the Great, called the Apostle of England for the merit he earned, sent his disciples there, so that they might enlighten the people, miserable in their ignorance of the Gospel, and rightly join them to Christ. And what they accomplished there, with the best help of God, through their constancy in labor, abundance of doctrine, and splendor of virtues, is well known: and they successfully introduced true and solid institutions and arts into those regions. — The English people, recognizing these benefits as worthy of the highest esteem, has always followed the Benedictine Order with the utmost devotion and benevolent gratitude: a fact so remarkable that, day by day, the Order has extended its influence and its strength, and these blessings have increased with the greatest joy, bringing forth the most excellent fruits of piety and religion, and deserving even now of praise in the annals of the Church. But, in the sixteenth century, due to that most bitter and extremely calamitous schism concerning the Catholic faith, the common dwellings of the religious were depopulated and devastated; the monks were either killed or dispersed; so that, at the beginning of the following century, scarcely one, Legibert Buckley, remained of the once numerous number of Benedictines. He, deeply grieved for the fate of his brethren and for the ruin of such great things, began to consider in his mind how he might, in some way, help religion and his country, and himself. Therefore, he, together with some other monks associated with him, and with some young English men, who were joined to them and adorned with the sacred habit, laid the foundations of the Sodality, or Congregation, which is even now flourishing, the Anglo-Benedictine: whose principal efforts are to be credited with the restoration of the Catholic Church in that most noble nation. — The plan undertaken by Legibert was received with such gratitude and acceptance by the Roman Pontiffs that it may be said to be a singular manifestation of God's provident

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care.

[*Latin ed. p. 428*]

428 Recognizing the importance of correspondence, they exerted great diligence to ensure that the Society, having been revived with great hope and beneficial purpose in England, would flourish. As we have learned, letters were sent on December 24th, 1612, by Pope Paul V, praising the Society and rightly foreseeing the need for new definitions regarding the Society's affairs, and for the drafting of statutes, to be held in the manner of laws; these, having been written, were approved and ratified by the authority of the Apostolic See, in letters issued on August 23rd, 1619. Pope Urban VIII, through the Constitution *Plantata*, dated July 12th, 1633, fully confirmed the actions of his predecessor, granting many privileges to the Society and prescribing a certain form of governance, as well as the proper performance of the duties known as "missions." Then, Pope Benedict XIV, through the Constitution *Apostolicum ministerium*, dated May 30th, 1743, reaffirmed and confirmed those same privileges, and also defined the duties that the monks, as missionaries, should perform among the vicars apostolic, who had previously been in charge of the sacred island. Subsequently, Pope Pius IX, in the year 1853, took steps to ensure that a general chapter or council, for the integral discipline of the entire Society, be introduced; and on May 20th, 1860, he decreed that each house should have its own initial approbation. We, too, have taken no small care of the Anglo-Benedictine Congregation; and it pleases us greatly that, in the year 1881, we appointed a most worthy son, Boniface Krug, a Benedictine monk, as inspector, or, as they call him, visitor, so that he might, in the name of Ourself, ascertain how his judgments were being carried out, and what matters might require Our attention, and that he might fully report to Us. Having learned that he exerted the utmost diligence and prudence, we delegated a particular council of the Sacred College of Cardinals, who, moreover, considered and judged what might be most beneficial to the entire Society and to the apostolic mission to which so many of its members dedicate themselves; and, after considering their true opinions, we wrote to them on July 6th, 1873. Now, we desire to testify even more fully to the fact that we embrace the Society itself, and how diligently we maintain its dignity; and we have considered it timely and opportune that, should certain difficulties arise that hinder it from fully pursuing its purpose, we should take action.

[*Latin ed. p. 429*]

LETTERS 429. Due to the difficulties arising from the current state of affairs, it was deemed prudent to introduce a new arrangement, so that it might be suitable for the times and also maintain the proper institutions of the Order. For the form of government that is currently in effect, Pope Urban XIII, by the Constitution *Plantata*, decreed that there was no

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monastery in England during that time, nor were any religious houses established, either by ecclesiastical or civil authority; therefore, he decreed that the English Congregation should be governed by a single Superior, called the President, who would reside outside of England during the schism, and by two Provincials immediately subordinate to the President in England; and in the same manner by the Priors of the houses or convents outside of England; and then by a certain number of Definitors. In this way, the jurisdiction over the missions and the monks devoted to them was transferred from the Monastery, and those who were exempt from it, and those who were bound to it even when they exercised a missionary office, to these two Provincials residing there; which was, indeed, a wise and necessary arrangement, so that the missions would not suffer from a lack of governance, and so that the missionaries would have a common seat and, as it were, a center to which they could turn in all matters. — When, after some time, several monasteries were re-established in England, and were governed by their own superiors, it became necessary to ensure that this was done, and this was soon accomplished, so that, with the maintenance of discipline, few and not insignificant inconveniences would arise, and so that the entire Congregation, with its doubled authority, would not be completely mixed up. At this time, the issue of the harmony of the Sodalitas arose: for there are those who bring up the question of whether the Anglo-Benedictine Congregation is, by its very nature, monastic or missionary; and whether the monasteries have supreme authority, and for what reason the missions should be subject to them, or whether the missions should be entirely subject to their own laws, without any obligation towards them. — It is now most clearly evident that the Anglo-Benedictine Congregation is, by its own nature, monastic, and also missionary, inasmuch as it is accustomed to devote itself to other sacred offices and to missions; from which it is equally clear that the missions should be subject to the monasteries, and not the other way around. This, indeed, is entirely demanded by the very reason and purpose of the Congregation, as is clearly attested by history. And just as any other religious Order has two aspects, distinct from each other as if they were *fines*,

[*Latin ed. p. 430*]

430 The matter pertains to, and follows from, the following: first, that students are instructed in all matters of spiritual discipline according to the guidance of evangelical counsels, and that they perform the works that are proper to them according to their own laws and precepts; secondly, that other works are undertaken and accomplished, so that they may be able to promote the active practice of virtues and to desire it. Therefore, in the first place, the will and nature of the Order are such that its norms and laws, by which it is guided, must be sought; and, indeed, all others,

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and whatever is contained in the second part, must observe and obey these same laws, and in no way act contrary to them. Thus, the will and nature of the Anglo-Benedictine Congregation, as is declared by its monastic rule, its constitutions, and its annals, is such that those who are in charge of monasteries with full authority, should, in all respects, govern and regulate all, both within the walls of the monasteries and outside, with unwavering authority in the performance of their duties.

Moreover, this has been the course of events over time. In the year D.LXXXXVI, Saint Augustine, along with forty monks, was sent to England by the order of Saint Gregory the Great, in order to convert those peoples to Christ; and, obeying the will of the Pontiff most religiously, he did not establish any other ministers than monks (1). With this first step, he began to build the monastery of Canterbury, in the chief city, from which everything else would depend, not only for the proper maintenance of discipline, but also for the duties to be performed for the salvation of souls. For Saint Gregory had decreed that the Benedictine students should act as apostles and as monks, so that the monasteries might be certain seats of the apostolate; and that the abbots should undertake the administration of all the churches which the monks, and no other clergy, were to found in those regions, and to which the faithful would be added.

From this it follows that, although the monks were most diligent in all matters pertaining to the priestly office, nevertheless, the ultimate authority and governance of all things in the monasteries resided with the abbots. In the island, at the beginning of the eighth century, there were monasteries, and these were numerous, numbering eight; from these, bishops were appointed, who indeed resided conveniently among them, but the entire authority over the monks, as missionaries, remained with the abbots (2). By reason of this discipline, the Congregation grew more and more, so that in the fifteenth century, it possessed forty-two abbeys, and twenty-two priories (1).

(1) Mabillon, Annales Benedictini, An. 601.

(2) Mabillon, Annales Benedictini, An. 731-734.

[*Latin ed. p. 431*]

And furthermore, the ruin which was inflicted upon it in the past, and which has persisted for centuries, has not ceased. Already, there is a Sodalitas there now, and it must be maintained in the same manner as before, for it has been restored upon the ruins of an ancient monastery, and it intends to promote the Christian instruction of the English people; if, that is, those who now seek to do what the ancients did, namely, to lead people away from ethnic superstitions, insist on doing so by leading them back to the Catholic faith. For this reason, Our Predecessors, with the same support from the Sodalitas, never decreed anything that seemed to introduce a different kind of governance into it; and indeed, from the very Constitution

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Plantata, which has been thoroughly examined, it will become clear that nothing contrary to this appears. For, since monasteries were forbidden for a time in England, and even the superiors of monasteries could not be there, but were to be governed by the vigilance and counsel of Benedictine missionaries, as was fitting, Urban [VIII] decreed that two provincials be appointed to take care of it. But this was not done for all time, but as a temporary exception, for as long as the circumstances required it, and it is clear from a passage in the same Constitution: where it is stated that the President should reside outside of England, during the schism; and also where it is given that the Congregation may have a residence outside of England. These provisions must be understood as temporary, and, indeed, as long as those who were subject to them were forbidden to be within the boundaries of their jurisdiction. Furthermore, the Pope himself decreed that the privileges, graces, indulgences, faculties, and prerogatives of the Order and Congregation of Saint Benedict, and of that monastery in England, (1) and of the nine cathedral churches, should be preserved; by this decree, he tacitly, but very clearly, affirmed that the administration of all the churches, of which the Benedictines ministered, and of those monasteries, if they should ever be restored, should pertain to them in the same way as before the schism; thus, it is clear that Urban did not deprive the monastic authority of its power by this Constitution. Furthermore, it is also the universal custom of the Benedictine Order: for in other families of the same Order, whatever power there is in missions and in missionaries, that power is always held by the monasteries themselves.

[*Latin ed. p. 432*]

432 Letters received: and indeed, no one is ignorant that abbeys are such that they not only consult with themselves, but also administer to external churches and courts, and exercise jurisdiction over many things. — Therefore, the method of associating and regulating power, so that monasteries may obey missions, is most to be desired, also because of the outstanding opportunities that can benefit both sides. For, as is known to all, monasteries, if they possess a truly flourishing and legitimate discipline and studies, owe this, not to students whose will or work is desired, but rather to the abundance of virtuous men and the moderation of labors that result from this; and the best remedy for these inconveniences is, as it were, a common provision and arrangement. — Similar aids, and perhaps even greater ones, are available to missions. For in order that they may bear fruit and bring about salutary results, they need not only the ministry of monks, but much more the examples of their most holy lives, which can wonderfully persuade to the truth and commend virtue; and although there are zealous, probable, and industrious individuals, yet more will be present and will be more effective, the more monasteries support the institution, and the more the light of domestic perfection shines forth. — Moreover, in the

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publication of writings, the field is open to missions, and the Benedictine Order, which has labored with such glory in all ages, can, in the same family in Anglica, with united minds and labors, excited by the study of doctrines, and striving for better things, contribute honorably and usefully; for writings full of learning and of literary gravity are very beneficial in Anglica, where they are sought out and approved by men of intelligent judgment, they gain the favor of Catholic writers, elicit reverence for the Roman Church, and, as often happens, invite the erring. — Also, those laborious and momentous works, which are expended in instructing youth in literary exercises and in the missions of the clergy, will certainly be more fruitful, and, therefore, will occur and be of greater value and contribute to the benefit of the state in many ways. To this end, that a union may arise between monasteries and missions, so that the superiors of the monasteries, as it were, preceding in the office of power, may subject the monks to the missions.

[*Latin ed. p. 433*]

LETTERS 433, and they obeyed, having given their response, which was given by chosen Cardinals and confirmed by Our authority. Although the true head of the question was first: "Whether and in what way should the 'Urbaniana' Constitution, established for the Anglo-Benedictine Congregation, be amended?" the response was: "It does not seem that it should be amended." Nevertheless, it was perceived that this arrangement would not be without its merits, and that, more often than not, those monks, previously professed, would fulfill with all diligence the desires and precepts of this Apostolic See, and would give satisfaction in all respects; and that they had not presented any testimony, either by themselves or by others, of their piety and zeal towards the Apostolic See itself and towards the aforementioned Congregation. But, since Our intention and will have been sufficiently declared, the responses to the other sections of the questions are as follows. Indeed, regarding the second section, posed in this manner: "Whether it is necessary to consult about, and in what way, regarding missions and the method of study, and how to maintain the discipline of a single and the same novitiate?" the response was: "It is pleasing that it should be consulted in such a way that other missions may be undertaken, unless with the permission of the Apostolic See, and by monks chosen for that purpose, who are distinguished for their doctrine and example; that superiors and definers of the provinces should have seats in the monasteries; that the courses and methods of study should be in accordance with the Constitutions (chapter XVII); and, furthermore, that those students who show the best promise should be sent to Rome to be more fully and perfectly imbued with knowledge; that a single novitiate should be established for all; and that the general chapter should be composed of those, especially those, who possess jurisdiction." These consultations and the

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meaning of Our will, to which We were and are devoted, led, indeed, to harmony and progress for the entire Sodalitas. For, first, in order that no burdens should be added to the monasteries, which are already fatigued and almost overwhelmed, it was provided that no other missions should be undertaken, unless with the permission of the Apostolic See. Secondly, in order that monks, who are not yet sufficiently instructed in knowledge or who have not conformed to legitimate discipline, should not be assigned to missionary duties, and so that the common offices of the brethren should not be neglected due to a lack of members, it was prescribed that this duty should be assigned to monks who are distinguished for their doctrine and example.

[*Latin ed. p. 434*]

434 Letters of piety and to restore the former glory, it was prescribed that the reason for this should demand the adoption of the norms of the Constitutions, and that a greater perfection should be sought in Rome for the more outstanding students. Thus, also, because of the cause of union, monks were joined together between the regular and missionary orders, and the administration of the Missions and of the entire Congregation was to be established in the monasteries, and the superiors, definers, and provincials were to live according to the rule in the monasteries, and to observe it; and so that they might be persuaded that both ways of life, the monastic and the missionary, are closely connected with each other. Furthermore, so that all students might maturely understand that, although pursuing diverse offices, they have a common purpose, it was prescribed, with confirmation, that only the most worthy novices should be admitted and trained in the house. Finally, so that the general chapters, surpassing the number of regular clergy, might not cause the demise of the missionaries, a precaution was taken so that, after abolishing the custom by which those, as they are called, or experts in power, were permitted to attend, and to give their votes, this right should properly belong to those who are properly in authority.

For the same reason, those Cardinals who were chosen, in answer to the fifth question: "In what ways, and with what purpose, should the Anglo-Benedictine Constitutions be reformed?" replied: "We believe that they should be reformed, with this intention, that from the very Congregation, certain men should be designated, namely, the General Superior and four monks called to council; who should examine the Constitutions, and report what, while preserving the same things, seem to need to be changed; in this work, there should also be a place for answers given to the superior questions, and for recent decrees concerning the status of the regular clergy, the admission of novices, and the profession, and for the changed civil and religious conditions in England; so that the Society, and the entire institution of the Missions, may not relinquish anything of

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religion and of the monastic law, handed down by St. Benedict, but rather may more diligently pursue them daily." From all that has been said, it is clear that, because of the lack of congruence between the sacred laws of the Fathers and the discipline, and because of a certain necessity that had been added in difficult times, these things concerning the Constitutions should be amended and abolished. Moved by these reasons, for the instruction and increase of the Anglo-Benedictine Family, that it may flourish more happily among the students, through concord in studies and in purpose; so that it may attain to the amplitude and glory of the ancient Society, from which it continues to exist.

[*Latin ed. p. 435*]

LETTERS 435: Concerning this matter; that the author's endeavors in promoting missions may succeed with greater fruit, by Our Apostolic authority We decree and command the following:

I. Annulled is the Constitution *Piantata* of Urban VIII, from which a certain regulation pertains to the Congregation of Benedictines and missionaries in Anglia; We abolish and declare abolished the duties of the provincials, as well as all other missions, within the provinces.

II. All missions which are there now, and all those which, having been granted by this Apostolic See, are to be established there by the alumni of the Congregation, shall be united with the monasteries, and shall be governed by their superiors; We subject the missions and missionaries to the jurisdiction of these superiors, both in sacred and external matters; nevertheless, the rights of the Bishops and other Ordinaries shall remain intact, as reserved by the canons and the constitutions of the Apostles.

III. All faculties and privileges granted to the Provincials or Deans, to the extent that they pertain to the care of missions and missionaries, in whatever manner, whether by the Apostolic See, or from general chapters or constitutions, We transfer all of these to the superiors of the monasteries, so that they and their counselors may enjoy all the faculties and privileges which they previously possessed.

IV. These superiors, in all matters concerning missions and missionaries, shall listen to the general president and the council of that order; nor shall they send any monk to the missions, unless they have knowledge of and consent from them.

V. The general president and his council shall take care that the young alumni are instructed in doctrines and monastic virtues with the greatest care; nor shall they commit anyone to the missions, unless they have ascertained that he has the aptitude and ability for that office; and if the alumni are not suitable, let the vacancies be filled by vicars from the external clergy.

VI. The general president, after consulting with the superiors of the monasteries, shall provide for how the missionaries may, each year, be

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able to withdraw from their respective monasteries, and to remain there for some time, not less than a month, so that, through the use of a more sacred discipline and the practice of pious exercises, they may refresh and cultivate their souls.

VII. Furthermore, We decree that, as soon as possible, a certain council shall be formed, under the general president, as a moderator, consisting of the superiors who are now the superiors of the monasteries, and of three monks, distinguished for prudence, and especially for their knowledge of doctrine, whom the president himself shall choose from among those.

[*Latin ed. p. 436*]

436 LETTERS concerning matters to be attended to. The following are the directives of this plan: First, that he assign established missions among the monasteries; having been granted this authority, he shall also establish new missions for the common good; second, that he receive the funds, which have been deposited with the Provincials for the support of missions, and distribute them equitably to the monasteries, which, in the future, according to Our Constitution, promulgated on the eighth of May in the year 1881, shall administer them according to the directions of the Roman Pontiffs; third, that he prepare a new order of regulations, adhering to the decrees of the present Constitution, and carefully consider all that has previously been sanctioned, concerning the integral and legitimate observance of the common life of the Disciples, concerning the establishment of a single novitiate house, concerning the attendance of the General President and his council in the monastery, concerning the calling of members to the General Chapters, and that he not omit the recent decrees concerning the status of the Regular Canons regarding the admission and profession of novices. Regarding the first and second directives, satisfaction must be given within six months from the date of this Constitution; regarding the third, within one year. Therefore, whatever has been decreed, declared, and sanctioned in these letters, We wish and command that all to whom it pertains observe it, so that it cannot be denied, violated, or brought into question, for any reason whatsoever, even under the pretext of a privileged cause; but that it shall have its full and complete effect, notwithstanding the foregoing, and, as may be necessary, according to the rules of Our Apostolic Chancery, and according to the constitutions, edicts, and decrees issued by Urban VIII and other Apostolic authorities, both in general and provincial councils, as well as any other statutes, customs, and prescriptions that may have been confirmed by Apostolic authority or established by any other means; all of which, as if they were expressly and specifically included in these letters, We expressly derogate and declare to be derogated, and We declare that all others who may act to the contrary are nullified. Given at Rome, near St. Peter's, in the year of the Incarnation of Our Lord, One Thousand Eight Hundred and Ninety, on the eve of the Ides of November, in the thirteenth

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year of Our Pontificate.

A. CARD. BIANCHI, PRO-DAT.

M. VISA DE CURIA

Loco f. CARD. LEDOCHOWKI

I. DE AQUILA

E VICECOMITIBUS

Plumbi Reg. in Secret.
Brevium.

I. CVG-NONIVS.

[*Latin ed. p. 437*]

437 Letters in brief form from the Most Holy Pope Leo XIII, by which indulgences are granted, on the occasion of the celebrations held in honor of St. Aloysius Gonzaga, on the 41st day before July of this year, marking the lapse of three centuries since his death. It is indeed opportune that these sacred celebrations in honor of SAINT ALOYSIUS GONZAGA, commemorating the blessed exit of him three centuries ago, are to be observed with piety. It has been reported to Us that, due to the favor of this wondrous event, the hearts of Christian young people have been stirred with a remarkable love, and that this is a most fitting occasion for them to demonstrate their reverence for their heavenly Patron with manifold expressions. And indeed, this is not only happening in those regions where the saint was born and lived, but widely wherever the name of Aloysius and his sanctity have spread. We, who from a tender age have been accustomed to venerate this angelic young man with the utmost devotion, are deeply moved upon learning this, and we are filled with joy. However, with God's help, we are confident that these celebrations will not be without fruit for Christian people, and especially for young people who honor their Patron, and that they will easily be led to contemplate the most excellent virtues which He, during His life, exhibited as an example to others. And those who contemplate these virtues and admire them, we hope, with God's help, will desire to inform their minds and hearts, and will strive to become better through imitation. Certainly, no more excellent example can be proposed to Catholic young people, nor can there be a more abundant source of those virtues which are most desired in youthful age. From the life and

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morals of Aloysius, young people can learn much, and they will learn how to preserve the integrity and innocence of life, how to practice constancy in curbing the desires of the body, how to despise riches and to disdain honors, how to devote themselves to studies, and all other things necessary to fulfill the duties and obligations of their age, which is of the greatest importance, especially in these times, when it is necessary to adhere with faith, love, and obedience to the Church and the Apostolic See. Whether the angelic young man labored within the confines of his home, or whether he, a noble youth, was in the Spanish court,

[*Latin ed. p. 438*]

438 He devoted himself to cultivating his soul through virtue and doctrine, having renounced his principality and joined the Society of Jesus, where he knew that he could fulfill the vows he had made and dedicate his entire life to the salvation of souls, and he applied himself to every aspect of life in such a way that he easily surpassed all others in merit and left behind outstanding examples of sanctity. Therefore, with wise counsel, those who are dedicated to the instruction and education of Christian youth often present Saint Aloysius as the most noble example to be imitated, following the counsel of Our Predecessor, Benedict XIII, who established Saint Aloysius as the principal celestial patron of youth devoted to studies. Therefore, those Catholic youth organizations, which are established not only in Italy, but also in foreign cities, with the purpose that such Aloysian celebrations be solemnly observed, deserve great praise for the efforts and resources they have devoted to preparing the honors that will be bestowed upon the Angelic Youth throughout the Catholic world, and for the care they take to ensure that Catholic piety and numbers are manifested in pious pilgrimages, whether to the shrine of Saint Aloysius or to this very city where his sacred relics are preserved and venerated. Furthermore, as we have learned, boys and girls offer testimonies of their pure love and piety to Aloysius, with prayers widely disseminated, adorned with noble names, in which they separate themselves as servants and clients. For each of these instances, we desire and hope, with the help of God, that a good and blessed outcome may be achieved. In the meantime, we have received fervent prayers that we may enrich and adorn this celebration with the heavenly treasures of the Church. Therefore, we have deemed it fitting to favorably respond to these pious prayers. Wherefore, with the mercy of Almighty God, and with the authority of the Most Holy Apostles Peter and Paul, We decree that all Christian faithful, of both sexes, who, during the triduum, or at least for nine days, shall offer the prayers that are to be recited according to the instructions of their respective Ordinaries, and who, on the feast day of Saint Aloysius, or on one of those days chosen at their discretion, shall have confessed their sins and received Holy Communion, shall devoutly visit any church or oratory where the feast of Saint Aloysius

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is celebrated, and there shall pray for the...

[*Latin ed. p. 439*]

439 The concord of the new Princes, the extirpation of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church, may these devout prayers offered to God be fulfilled; and we, moved by mercy in the Lord, grant to all the faithful a plenary indulgence and remission of their sins. To those faithful who, with a contrite heart, have completed pious pilgrimages to the aforementioned places, and who, even in small ways according to their ability, and their parents who have inscribed their names to seek the patronage of Aloysius, have assisted for thirty days or nine days, as aforesaid, we grant a remission of sins for seven years, and forty days in the accustomed form of the Church. We also grant that all and each of these indulgences, the remission of sins, and the relaxation of penances, may be applied even for the souls of the Christian faithful who, united with God in charity, have departed this life, for the purpose of suffrage. These present documents shall have the same validity. Furthermore, we decree that copies or exemplars of these present documents, even if transcribed, and bearing the signature and seal of a public notary, and of a person constituted in ecclesiastical dignity, shall have the same full faith and validity as if the present documents themselves were exhibited or shown. Given at Rome, at Saint Peter's, under the seal of the Fisherman, on the second day of January, 1837, in the thirteenth year of Our Pontificate. M. CARD. LEDOCHOWSKI.

[*Latin ed. p. 440*]

440 FROM THE HOLY CONGREGATION OF THE COUNCIL OF ACQUI. DECREE OF FOUNDATION, September 6, 1890. Session 24, Chapter 18, Concerning Reforms. Maria and Antonia Oliviero, born in Liguria, but deceased in Gades, in Hispania, by a public instrument dated April 1, 1786, decreed the establishment and erection of a perpetual chaplaincy in the parish and collegiate church of Campo Freddo, now Campo Ligure, in the Diocese of Acqui. They chose, in the same instrument, the first chaplain, ordering that it be their nephew, Marcus Olivero, and after him, they seem to have passively called their relatives descended from the line of Olivero; and upon the extinction of that line, the archpriest of the same place, Campiliguri, who was then the parish priest: to the Bishop, however, they granted the active right of appointing. According to the form of these instruments, the first to obtain the foundation was Marcus Olivero; upon his death in the year 1836, the priest Matthaeus Olivero possessed the goods of the benefice; and upon his death also in the year 1844, the cleric Palladino, related to the founders, obtained the canonical benefice. But before this, certain events occurred, which are the roots of those matters over which the present controversy turns, and concerning which it is most fitting to

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briefly recount here, because they pave the way for an easy resolution of the present case. Therefore, after the cleric Palladino was named by the Bishop, then...

COMPENDIUM OF FACTS.

[*Latin ed. p. 441*]

ACQUI. In the year 1841, a certain Rochus Campiliguri, and subsequently a certain Christopher Olivero, opposed the appointment of a cleric named Palladino, arguing that the aforementioned cleric, being related to the founder by blood, and possessing a greater right in the matter compared to others, could not be admitted to the possession of the benefice; but, the parish priest added from his side, that he, being called in the absence of relatives, was to be appointed according to the law of the foundation. Meanwhile, Christopher, on the other hand, maintained that his own child, being a relative, should rather be preferred. The Aquensi court, convened to resolve the dispute, issued a formal judgment on April 24, 1845, in which it decreed that the benefice should be conferred upon the cleric Palladino, because, after examining the statutes and the intentions of the founder, relatives did not appear to be excluded from the possession of the chaplaincy, and neither the parish priest nor Christopher Olivero demonstrated a superior right, excluding others. Since both the parish priest and Christopher, who had lost the case, appealed to the metropolitan court of Turin, the case was brought before the court again. Arguments were presented by the lawyers, and the opinion of the fiscal prosecutor was also considered, and finally, on October 11, 1847, a judgment was rendered, in which the appointment of the cleric Palladino was indeed confirmed, but on different and, in the initial instance, different grounds. For the court deemed that it should not issue any judgment regarding the admission or exclusion of relatives from the enjoyment of the benefice, as this was not a necessary matter for the resolution of the dispute; however, it did not conceal that it was most inclined towards the opinion of the fiscal prosecutor, in which relatives were deemed to be excluded by passive vocation. But it held that the appointment of the cleric Palladino was to be approved, because, on the one hand, no relative existed who possessed the required qualifications, that is, who was distinguished by the clerical character; and, on the other hand, there was no reason to favor the parish priest's proposal.

[*Latin ed. p. 442*]

442 AQUÉN. This situation continued until the line or family designated was extinct; therefore, it was held that the Bishop possessed the free power, whether as the active patron, or as the ordinary collator, to choose anyone in the absence of passive vocations. For this reason, the chaplainship was

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held by Palladino peacefully until his death, which occurred on November 21, 1884. Upon his death, difficulties arose in the new provision of the benefice, which provided the basis for the present cause. For the priest Dominic Leoncini, from the family of the foundress, presented a suppliant letter to the Bishop, imploring him to grant the benefice to him. After assenting to the request, the Bishop on December 20, 1884, chose and named the petitioner as chaplain, and, according to custom, after a few days, announced the appointment by a public edict, and stipulated that if anyone had any objection to this appointment, or to the appointed person, they should present it. Furthermore, just as formerly, against Palladino, the old parish priest of Campiliguris had arisen, so now, against the priest Leoncini, the current rector of the parish, Matthew Bruzzone, arose, claiming the benefice and issuing a protest against any collation made or to be made of the same benefice. For, he said, since the line of clerical descendants of the foundress is not extinct, the benefice ought, according to the will, to be conferred upon the parish priest of Campiliguris for the time being, and its endowment attached to the parish benefice perpetually. However, when Peter Oliveri, the parish priest, learned of the matter, he filed a counter-suit, stating: that it is to be understood from the testamentary documents that the parish priest of Campiliguris is called to this benefice, when the family of Oliveri is entirely extinct; that this family cannot in any way be said to be extinct, but rather still harbors hope of producing male offspring; therefore, it is not...

[*Latin ed. p. 443*]

44a. He is to grant this right to him and his descendants with regard to said benefice. Subsequently, what actually occurred is not entirely clear. However, it is certain that, after five years, and precisely at the end of the year 1889, the priest Leoncini applied to the Sacred Congregation [S. C. C.] to obtain the institution to the benefice. Having been consulted regarding information and opinion, the Bishop reported, among other things, that it is established in the episcopal court that, in the line of agnates who consider themselves alone to be called to said benefice, only Peter Oli remains, who has had daughters, not sons, and who was born in the year 1818. Now, since Canon Leoncini is seeking to obtain the institution, and the parish priest absolutely opposes this action, and the Bishop to some extent and in a certain manner, it is clear from this where the limits of the controversy lie.

Synopsis of the Arguments.

Firstly, the arguments in favor of the parish priest are valid, as they have already been presented, since in both the cases of the cleric Palladino in Aqui and in Taurini, the institution is being considered because, in the founding documents, the passive patronage of the line and the founding family, that is, the Olivero family, is reserved. And by the term "line," only

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agnatic descent is designated, and by no means cognatic descent, as is clearly evident from the writings of Baldus, cons. 321, vol. 1, and of Fusarium, de subst. quaest. 346. Furthermore, "in the accepted usage of Italy, only agnates are shown under the name of the family," as Pitonius states, alleg. 100, n. 192, with De Luca, de iur. patr. discep. 25, n. 3.

ARGUMENTS IN FAVOR OF THE PARISH PRIEST.

What is to be more strictly maintained is that, whenever the name of the family is accompanied by the very surname itself, as is the case here.

[*Latin ed. p. 444*]

444. AQUÉN. For it is generally taught by the Doctors, as DD. state in *De Luca, tit. loc., disp. 26, n. 3*, that agnatic relationship alone indicates [kinship]. Therefore, since the canon Leoncini is not related by agnation to Olivero, it follows that he cannot claim any title to the patronage, either active or passive, nor to the institution [to the benefice]. Nor can this be inferred from a nomination obtained from the Bishop: if, indeed, the Bishop, asserting that he was led by a false opinion, and considering the petitioner to be of good standing, nominated him; nevertheless, the law of the foundation itself prevented him from being appointed to the vacant chaplaincy. For the founders decreed that the parish priest of Campiliguris should succeed to the enjoyment of the benefice when the family of Olivero should be completely extinct, and all hope should cease that anyone descended from that family could obtain said benefice. Furthermore, even if the family and line of Olivero cannot yet be said to be completely extinct, it is certainly the case that the hope of male offspring, who might be invested with said benefice, has failed.

WHAT IS FAVORABLE TO THE PARISH PRIEST. But, on the other hand, it must be considered that what is said by the Doctors regarding the line and the family pertains properly to active patronage; and therefore, the theories explained above should be urged and applied with the same rigor in active patronage as in passive patronage. Indeed, in general, elementary equity dictates that founders have always wished to give preference to their own, whether agnates or cognates, especially those who are close, over outsiders, in the enjoyment of the benefice. Therefore, in this case, the presumption and equity certainly favor the canon Leoncini, as he is closely related, more than the parish priest, who is *alienus* from the founders in terms of blood and kinship. Furthermore, the purpose of the foundation itself is in the same sense; for the sisters Olivero were intent on the chaplaincy being held by members of their family.

[*Latin ed. p. 445*]

SECTION 445. The intention behind the establishment was to increase

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the number of ministers of God. However, if the chaplaincy were to be consolidated so quickly and easily with the parish benefice upon the extinction of the line of relatives, the purpose of the foundation would be entirely frustrated. Furthermore, it is added that in the foundation documents, the terms ”line” and ”family” are used indiscriminately to refer to relatives, and therefore it appears that the intention of the founder was not to restrict the right of patronage passively to only those related by blood, but to extend it to others also connected by blood. Moreover, this is not sufficient; for the word ”line,” which is inherently and generally of a more difficult interpretation, seems in our case to have the best explanation. It must be known that, according to Bartholomew Oliveri, who came from Campoligure to Tridento at the beginning of the 16th century, and who is considered the ancestor of the family, two lines of the Oliveri family are said to have descended from him: one from which the founders of the chaplaincy descended, and whose agnatic line now ends with Peter Oliveri; the other from which there are still several relatives, namely Peter, John, Mathias, etc. Indeed, nothing prevents us from saying that the founders, when they spoke of ”line,” understood that section of the Oliveri family to which they themselves belonged, in opposition to another that was more distant; and therefore, in our case, the term ”line” was used in opposition to another line, but not to exclude kinship. Moreover, whatever may be held regarding this particular point, it must be clear to those reading the foundation documents that the parish priest cannot claim the passive right to the benefice, nor can he exclude someone nominated by the Bishop, until the Oliveri family is completely extinct, and all hope of succession to it has been completely removed. However, especially at the time when Canon Leoncini was nominated to the benefice, the Oliveri family was not completely extinct, nor had all hope of succession to it been completely removed; for Peter Oliveri was in it.

[*Latin ed. p. 446*]

446. AQUÉN. Although still young, she was not in any way incapable. Considering these circumstances concerning the procreation of offspring, and although difficult, it is possible. The question was raised whether the institution of the priest Leoncini into the chaplaincy of S. MasubCastello should be granted in this case. RESOLUTION. September 1890. The Sacred Congregation, having considered the matter, decided to respond affirmatively, under the date of September 6.

MELEVITANA. EXCHANGE OF WILLS. On September 6, 1890. Through summary prayers, a COMPENDIUM OF THE AGREEMENT. Salvator Schembri, in his testament of the year 1858, stipulated that a dowry should be given to a girl of 18 years of age, descending from him with the canonical prelation, etc., and that the statutes of the years 1860 and 1863 should apply; however, he stipulated that these statutes should

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apply to girls of 40 years of age entering into marriage. He also stipulated that, of the girls who were religious and unmarried, Anne, who was from a parish and who, along with others, were working diligently and were in great need, should receive a dowry that would be of value to them before the year. Felicem Rosso supplici subsidium una quam dicuntur canonici Schembri, pii magna hoc Schembri, his sister, and his brothers, and Ioanne Marmara, his relatives, and the money, which, in favor of those mentioned above, had been requested from the Bishop in a small book, should be provided.

[*Latin ed. p. 447*]

MELELEVANNA 447. Prima die, petitiones repulsae sunt responsione, "reiectum." Sed iterum, cum oratores instabant, quaestio definienda proposita est supremo E. E. P. P. iudicio. Disputatio Synoptica. Ut non recedatur ab sententia semel suscepta et petitiones exaudiantur, praeest praecipue illud sanctissimum iuris principium quod iubet voluntates fundatorum servari, et non nisi ex iusta et necessaria causa mutari, juxta cap. 6, sess. 22, Concilii Tridentini. Adde quod, in hac materia subsidiorum dotalium, quaelibet detractio aut imminutio fundorum in detrimentum cedat iuri vocatorum ad dotationem habentium. Quod in casu, de quo agimus, magis elucet, si perpendatur legatum constitutum fuisse pro mulieribus in Domino aut in saeculo nupturis, aut quae in caelibatu manentes quadragesimum aetatis annum excesserint: dum, contra, in precibus petitio est pro fratribus simul et sororibus, et iis quidem, saltem probabiliter, aetate adhuc iuniore fruentibus. Unde laesio interesse habentium et subversio legis legati luculenter apparent. Eo vel magis, quod fundator iusserit, si forte contingat ut quaedam redituum exuberantia verificetur et vocatae feminae desint, reditus in augmentum sortis ad futurorum eventuum cautionem cumulari. Demum, ad precum exclusionem, quaedam ratio disciplinaris etiam occurrit, idest, ut ait Episcopus, ne augeantur petitiones de ultimarum voluntatum commutatione. PRECES EXCIPIENDAE VIDENTUR. At, ex adverso, stat quod ipse legati institutor, in primis, praeviderat subsidium extra nuptias suis consanguineis praestandi, si puellae quadragesimum annum célibes excesserint. Nec obstat quod PRECES RESPUENDAE VIDENTUR.

[*Latin ed. p. 448*]

448. In the statutes of the foundation, only women are mentioned; for these, if they wish, can divide their right with their brothers without harming the foundation. Nor does it matter that the beneficiaries in the younger generation enjoy a certain age; for this is not certain in the first place; but even if this were the case, there seems to be a just reason for an anticipation in the provision of assistance, and for a derogation from the founder's prescriptions in this regard. Firstly, within these terms, there would be no

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question of a serious alteration of will; and furthermore, when it concerns the closest blood relatives of the founder, as the Bishop writes, and those who are laboring under great poverty, the presumed will of the founder seems to intervene in favor of the beneficiaries. Moreover, as the Bishop testifies, there are not present girls who are capable of receiving a legacy, and finally, an abundance of income is verified in the administration of the legacy. It must also be noted that both the administrator of the legacy and the Ordinary should favor these beneficiaries through prayer and commend them, and furthermore, they should propose a method according to which they believe assistance can be provided, namely, 3750 livres for a single occasion, for those who are truly in need. Considering these observations, the question arises as to what should be answered to the petitioners. RESOLUTION. The Sacred Congregation of Religious, having knowledge of the matter, on September 6, 1890, decided to respond: For the sake of expediency, and according to the opinion of the Bishop, let it be so, with the consent of the Most Holy.

[*Latin ed. p. 449*]

449 LETTER from Our Holy Father Leo XIII to the Most Eminent Parish Priest, Vicar of the City, and to the Curators of the secular solemnities of Saint Gregory the Great, concerning the great power of the Church conferred upon him more than 1300 years ago. Beloved Sons, and Beloved Children, Greetings and Apostolic Benediction. The distinguished zeal, with which you are inflamed, as we learned from your letters, to celebrate the memory of Saint Gregory the First, Pastor of this Roman Church, at the end of the thirteenth century, on the anniversary of his Supreme Priesthood, corresponds most deeply to our own veneration and our own desires. For it cannot but be pleasing to us that singular honors are given to that illustrious light of the Church, and to this Roman See, to whom eternal testimony of praise is given for his outstanding merits, whose great name, confirmed by the goodwill of his equals, has aroused the unanimous admiration of posterity. He was indeed, for the Catholic world, a divinely-inspired counselor and a faithful minister, ready to labor in times of great difficulty, for the good of the Church and of human society. For he, having recalled the peoples from errors, converted kingdoms divided by discord to the faith of Christ, and watered the earth with heavenly doctrine for centuries: the most abundant fruits of his zeal for the Christian cause were seen in the Eastern Church, Spain and France were won over, and Africa, despite its great hardships, was brought under his influence; and even as the Roman Empire was almost destroyed, and the barbarous power held sway in this Italy, he, in great turmoil and in times of great sorrow, asserted the excellence and invincible strength of Christian humanity, he was a comforter in calamities, a repeller of injuries, and through him, the power and arms of the potentates yielded to truth and justice. And through his patronage,

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this region found solace, salvation, and help. It is fitting that, following the example of our most worthy Predecessor, and with your piety, you have undertaken to publicly honor the memory of him, whose pontificate was offered to us after ten and three centuries, as you have decreed. For it is fitting that the insignia and decorations which belong to the glory of the Church should be brought to light and presented to the faithful, and it is also appropriate for the times, in which it is necessary to strengthen minds with strong and steadfast examples.

[*Latin ed. p. 450*]

450 To this City, which does not accord with the dignity of this man, I boast, whom it received in its infancy, whose mortal remains it preserves and venerates, whose supreme ministry it has experienced with paternal care, and who, through his outstanding merits, has gained honor and grace among all nations. And since his glory is exceedingly great, stemming from divine benevolence, and flowing from every good thing, you have, with appropriate and deserved judgment, determined to offer eternal thanks to God, who aroused such virtue in his Church, and accomplished such admirable and salutary works; and to encompass, in the assemblies of learned men, a commemoration and proclamation of the ingenuity and virtue of the illustrious Pontiff, and of the extent of the things he accomplished, without omitting the immortal example of his charity, illuminated by heavenly wonders, which are to be honored not with words, but with deeds, and to offer, as it were, a feast of piety. Therefore, having been seized by this noble zeal, by which your minds are moved, strive that, just as you glorify the Great Pontiff whom you venerate, so also, for the benefit and instruction of our age, your commemoration may revive the deeds accomplished by him. For there is nothing more useful and salutary than for men to learn, from the age of the Great Gregory, how much the divine power of the Church can benefit private individuals and the public good, by averting or healing evils, where it itself, without obstacles, exercises its power for the benefit of men; and the more that silent studies are devoted to it, the more room is left for reason and justice; and the more conducive it is to the tranquility of humanity and the prosperity of states and empires. For it is not with the wisdom and prudence of the world, but with the Church, which is the pillar and foundation of truth, that Christ is, the restorer of all things in heaven and on earth, from whom all things derive their value; and the sad experience of events, and the flaws and misfortunes of our time, teach this. In view of these evils, We do not cease to pour forth our prayers for the salvation of all men to God, and We do not doubt that you will offer to God, in the solemn acts that you are about to undertake, the prayers which He Himself requests, that just as, through the counsel, labor, and constancy of St. Gregory the Great, the force and bitterness of public evils were lessened in his time, so may the adverse currents, by which the Church and human

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society are now most grievously afflicted, subside, with the help of the most holy man in heaven. With this hope, let all things be prosperous.

[*Latin ed. p. 451*]

Letters [LITTERAE], with pious and solemn greetings, to which we respond, and the Apostolic Blessing, a testament of our sincere affection, We impart to you, our beloved Son, and to you, beloved Sons, individually and all together, three times in the Lord. Given in Rome, at Saint Peter's, on the tenth day of February, in the year 1891, in the thirteenth year of Our Pontificate. LEO P. P. XIII. FROM THE HOLY CONGREGATION OF THE COUNCIL OF AQUAN, ALSO MARSEILLE, OF MARRIAGE. August 9, 1890. Session 24, chapter 6, Concerning the reform of marriage. SUMMARY OF FACTS. This matter was presented on February 16, 1889, under the question of whether there existed a nullity in the marriage in the following case: the response was, "Regarding abduction, it is not established; regarding clandestine marriage, a process shall be carried out by the Bishops of Lausanne and Geneva, with the authority to delegate to provide instructions to the defender of the marriage bond." After the process was completed according to the instructions, the case was presented again on August 9, 1890, under doubts, both by the defender of the marriage bond and by the patron of the woman, concerning both abduction and clandestine marriage. SYNOPTIC DISCUSSION. DEFENSE OF THE WOMAN. The patron of the plaintiff, in order to demonstrate that the marriage is flawed by the vice of clandestine marriage, first of all recalls that it was celebrated in Switzerland on October 5, 1865, in the chapel of Saint James, by the priest Luder of the same chapel.

[*Latin ed. p. 452*]

4o2 AQUÉN. OR MASSILIEN. acting as curate and assistant pastor in the district of S. Mauritii Agaunensis, in which place, it is certainly the case that neither of the parties intended to marry resided, as is evident from the testimony of all witnesses, and especially from the testimony of the pastor of Agaunensis himself, who stated that he recorded in the parochial registers of the church of S. Mauritii that he had celebrated the marriage of Lazarina with the Baron d'Outhoorn, "by virtue of a delegation given by the pastor Mantel," and "due to the publications" and "the delegation of the pastor Mantel of Vevey." It may be said, moreover, that the validity of the marriage subsists because of the delegation from the priest Mantel, who was the pastor of the parish of Vevey. For the plaintiff contends that neither Vevey nor any other place was the domicile or quasi-domicile of the parties; for from the concordant testimony of the actress and the defendant, it is clear that, for a period of three months, which elapsed from the time of the abduction to the marriage, they were constantly wandering here and there. Furthermore, the Baron's stepfather, Petrus Marquet, who had come

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to Switzerland to assist his stepson, immediately learned of his sad deed, which is proof that Alfridus was constantly moving with Lazarina from one city to another, because he feared that they would fall into the hands of justice; and therefore, he states that he was able to find the couple only with great effort and difficulty. Therefore, the plaintiff affirms that what is said about the domicile or quasi-domicile of the Baron in the town of Vevey appears to be false, and moreover, the pastor of Vevey is to be accused of lying, who dared to assert that the parties had resided in the parish of Vevey for a period of three months. Moreover, even if it is granted that the Baron resided in Vevey for three months in order to contract the marriage, this would nevertheless not constitute a quasi-domicile; for residence in a place, which is not accompanied by the intention of remaining there for the greater part of the year, does not constitute a canonical quasi-domicile, and therefore it is of no use in the purpose of validly contracting marriage. Indeed, that Alfridus did not intend to reside for the greater part of the year in the town of Vevey is demonstrated by the testimony of Petrus Marquet, given by the actress.

[*Latin ed. p. 453*]

Whether in Marseilles or Geneva: "453 confirmed that Alf himself could not contradict it; then, from the fact that, shortly after the marriage, the bridegroom requested Geneva and resided there for three years, in a house that Alfricus had previously rented. Nor is the cause of the marriage better established by that complex story of delegation, as recounted by the priest Gignoux, formerly the parish priest of the place Nyon, now honorary general vicar of the Bishop of Geneva. For he affirms that he received, verbally, from the Lord Guiol, the general vicar of Marseilles, now deceased, the power to celebrate such a marriage. He further states that, in exercising this power, he delegated the performance of this duty to the priest Mantel, the parish priest of Vevey; who, not wishing to proceed himself with the blessing of the marriage, transferred his power to another, that is, to the parish priest of Saint Maur; who finally presided at the marriage. The advocate for the actress argued that this complex story is entirely divorced from the truth, and that no credence should be given to it, first, because the parish priest of Vevey, Mantel, in a letter in which he delegated the marriage of Lazarine and the barons to the parish priest of Saint Maur, does not mention a word about the powers granted by the Vicar Guiol, either directly or indirectly; but rather, he declares himself to be the parish priest of the bride and groom, based on false assumptions, and, as such, delegates the parish priest of Saint Maur. Furthermore, when the priest Gignoux stated in his letters that such a delegation had been granted to him by the Vicar Guiol in the presence of Peter Marquet, the latter completely denied it. Indeed, this witness affirms that he not only heard nothing about the alleged delegation, but that he heard that it had been denied. And this witness's testimony

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should be held in high regard, because it was confirmed by the testimony of the notary Maurel, who, when asked what he knew about this controversial delegation by the Vicar Guiol, replied that he had heard it from Reimonet and from Massol d'André, who had spoken with the Vicar Guiol about the matter.

[*Latin ed. p. 454*]

454 AQUÉN. OR MASSILIEN. reports that, despite the request, the delegation was denied, because it was well known that such a marriage had been disapproved of by the bride's family. Given these circumstances, it is clear that the delegation allegedly granted by Vicar Guiol is supported only by the testimony of the priest Gignoux. Furthermore, if a single witness is considered to be no witness, especially in more obvious cases, then all the more so will this be the case when, as in this instance, two contradictory witnesses and a written document are presented against his assertions; and even more so when this single witness is of questionable credibility, since, according to the testimony of the priest Broglie, Emum Mermillod once heard Mr. Gignoux say that he "acts very lightly." Moreover, the delegation, which is claimed to have been granted by Guiol, was too vague and general, and therefore may not have been known or accepted by the delegate, as the law requires. Furthermore, it does not appear to have been issued according to the terms under which a delegation for the purpose of performing a marriage is required. It is asserted that Vicar Guiol granted the priest Gignoux, or to any priest designated by him, jurisdiction to bless marriages; conversely, it is stated that Gignoux neither blessed the marriages himself, nor did he designate a priest to bless them; but the priest who was designated, namely, the parish priest of St. Mauritius, received his authority from the parish priest of Vibisci. Moreover, since "no interpretation favorable to marriage can have place in marriages contracted in defiance of the solemnities of the Church which are required by law," according to what is stated in the documents on Matrimony of Florentina, July 26, 1854, and Matrimony of Limana, February 1, 1868, issued by the Sacred Congregation of the Council, it follows that the plaintiff cannot presume the validity of this marriage, but must rather consider it to be clandestine and null, and therefore entirely reprehensible. After these points, the plaintiff, addressing another point of contention, namely, the impediment of abduction, repeats and inserts in its entirety into its allegations what the plaintiff states regarding this matter, and coherently testify D. Rambert, Emmanuel Gavot, Victor Bertagne, and Alfred Laval and his wife.

[*Latin ed. p. 455*]

Marseille. 455. Louis, indeed five witnesses, four having seen, the last having heard, of the husband, who all, with almost identical words, describe the sudden aggression against the girl, her oppression, her violent

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abduction, and her subsequent confinement, while she was being placed in the carriage. However, since all of these things have been related in the preceding page of the case, they are omitted here for the sake of brevity. Furthermore, since, in accordance with ancient civil and ecclesiastical law, the Council of Trent, Session 24, Chapter 6, concerning reforms, declares, "Between the abductor and the abducted, as long as she remains in the power of the abductor, no marriage can be validly contracted," the advocate argues that, for this reason also, the marriage begun at Saint-Mauritius should not be declared valid, as long as Lazarine remained fully under the power of the Baron. It is established from the testimonies of the witnesses, confirmed by her mother, by the notary Maurel, by Peter Marquet himself, the Baron's son-in-law, and by the witnesses who saw the events, that Lazarine was continuously guarded by the Baron, due to her suspicious nature. The assertion made by the Baron and his friend Bonifay, namely that Lazarine spent several days in a convent of nuns in the town of Saint-Mauritius, and that she was engaged there in spiritual exercises, is of no value. This, indeed, appears to be entirely false and utterly a lie, both from the assertions of Lazarine herself, and especially from the unanimous testimony of Peter Marquet, Canon Gignoux, and the current parish priest of Saint-Mauritius, who not only deny the fact, but declare it impossible and prove it to be so. The current magistrate of Saint-Mauritius confirms this, stating that neither at the time of the celebrated marriage, nor afterwards, was there a convent of nuns in the town of Saint-Mauritius. Moreover, it is said that Lazarine consented to the abduction and that she provoked her own flight. However, since it is fully established from the testimony of Lazarine's mother, Emilia Gauttier, and of Christine Marcoste, that Lazarine was taken captive by the love of a young man named Ducrot, and that she consistently rejected the Baron, it clearly follows that any consent in the flight, or any conspiracy of Lazarine with the Baron, must be dismissed as occurring during periods of mental derangement. - Indeed, those witnesses...

[*Latin ed. p. 456*]

406. MARSEILLE. Concerning the abduction of Lazarina, if they describe the girl's resistance, her violent oppression, and her forceful removal, they thereby demonstrate their consent to the abduction and undermine it. There is no possibility of refuting this argument, according to the assertions of Aloysius Bonifay. Indeed, this man, as the notary Maurel reports, is an enemy of Lazarina due to ancient family animosities; moreover, he is a companion and friend of Alfridus, who, according to the testimony of Peter Marquet, a baron of venerable age and character, is said to be capable of committing criminal acts, even perjury, and who, in his own deposition, did not hesitate to assert a falsehood in a matter of grave importance (namely, concerning the freedom granted to Lazarina

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and her spiritual exercises before marriage). Finally, he requested the judge "to ensure that D. Lazarina never knew what Bonifay had testified in court." No greater authority can be attributed to the priest Baudin, since he was only eleven years old when Lazarina was abducted from the Cabot convent; and especially because he admits that he completely does not know whether Lazarina resisted the abductor. Finally, the advocate observes that the nuns, contrary to the very basic principles of law, first appeared together before the judge and were dismissed; and then, when questioned again, but individually, they either contradicted themselves or offered such vague and hearsay information that their testimony is rendered futile and of no value. Given these circumstances, the violence of the abduction cannot be called into question, the advocate argues. But even if, he continues, someone were to doubt this matter, and were to prefer to believe that Lazarina consented; this would not negate the crime of abduction. For it is certain that abduction is considered an impediment in canon law, whenever abduction is present "according to the terms of civil law." As the learned Cuiacius states in title 13, book 9, chapter on abduction: "Today, it is customary to consider that someone who secretly took a girl away with her parents, even if she said she was willing, is considered an abductor; because it does not appear that the girl was willing, even due to her lack of seriousness and the fickleness of her sex." And further: "Therefore, he who seduces..."

[*Latin ed. p. 457*]

AQUEN. OR MASSILIEN. In the year 457, he secretly married a woman from whom he should have sought consent, and for this act, he is considered a kidnapper and is subject to the penalties of this law. Voet, in his *Pandects*, book 48, title 6, paragraph 4, repeats this exactly. Faber, in his *Code*, book 9, title 9; Cardinal Fuscus, in his *Concilia*, 5, volume, section on *Rapina* (Kidnapping); and Haspreet, in his *Institutiones Imperiales*, book 4, on *Matrimonium* (Marriage), all agree. Furthermore, Cardinal Riganti, in his *Regulae*, 49, Cariceli, number 66, presents this question very clearly: "But is a kidnapping committed with respect to a woman who is willing and consenting? I answer that, if there is no violence involved, and the woman is of her own free will, that is, is not under the power of her parents, nor under the care of guardians, then, according to common teaching, a kidnapping is not committed. The difficulty arises when a woman consents to be taken away, against the will or without the knowledge of her parents or guardians. And although the doctors are divided on this question, the opinion of the Sacred Tribunal of the Rota has been that a kidnapping is committed because of the injury done to the parents or guardians, even if the woman consents." And the Sacred Congregation of the Council has followed this judgment even in earlier times. Indeed, when this very doubt was presented before the Sacred Congregation of the

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Council on January 24, 1608, namely, "whether those who kidnap women who have consented to the kidnapping are subject to the penalty of the prohibition of marriage," the following response was given: "The Council of Trent holds that even if the woman is willing, a kidnapping is committed, both with regard to the nullity of the marriage and with regard to the penalties." However, Cardinal De Luca, in the work cited, notes that "of all the Fathers present at this session, one Cardinal from Mondovi believed that the Council should apply only to the nullity of the marriage, but not to the penalties; but all the others believed that the Council should apply to both the nullity and the penalties." This learned canonist further observes that, rightly, the Sacred Congregation of the Council has also declared that a kidnapping is committed even when the woman consents; otherwise, he says, "this conciliar decree would remain so ambiguously worded, and it would never, or at least very rarely, be possible to determine if it was referring only to that kidnapping which is committed with positive violence."

[*Latin ed. p. 458*]

458 AQUÉN. OR MASSILIEN. However, since, on the matter at hand, even the adversaries acknowledge that Lazarina, being of a younger age, was in no way of legal age, but rather under the guardianship of her mother and family; and since it has also been established and confessed that the mother and father of Lazarina completely disapproved of her marriage to the Baron; therefore, given that it is alleged, and not denied, that Lazarina's abduction occurred through collusion between the parties, yet, according to the patron, it still appears to be the case of a kidnapping, and therefore, it is considered necessary to retract from the previous judgments regarding this point, and this is strongly requested. OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE. ON THE OTHER HAND, the defender of the marriage, in order to remove the obstacle of clandestine conduct, first considers that from June 15, 1865, when the abduction occurred, to October 5, when the marriage was celebrated, the Baron and Lazarina showed care and concern for each other, indicating a genuine intention to marry; and that this was the very reason they went to Switzerland, and remained there for so long, because they hoped to achieve their goal more easily there, as the Baron himself testified. And the Baron was not alone in this endeavor, but was assisted by four highly esteemed priests, of whom Emus Mermillod gives the most excellent testimony in his letters to the Sacred Congregation. Furthermore, everything proceeded properly: since the parish priest of Gignoux, delegated by the Vicar Guiol with the broadest power of delegation, transferred his authority to the parish priest of Vevey, Mantel. And the parish priest Mantel, in a written document, transferred all the powers that had been given to him to the priest Luder, so that the canon Luder should be considered a legitimate delegate. If this reasoning regarding the delegation does not hold, then there is another, the best, response according

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to the defender: namely, that when the marriage was celebrated, the parish priest Gignoux himself was present, who testifies that he saw and heard everything. Nor does it matter that, according to the deposition of Peter Marquet, the delegation granted by the Vicar Guiol is called into question, for, the defender argues, no credence should be given to this man, because while he was in Switzerland with his brother-in-law, he was...

[*Latin ed. p. 459*]

In Aix, or Marseille, number 459, the conciliarist [faction] agreed to "pass for uncle" to Lazarina, while her actual father or uncle was not at all her father or uncle, and (as he states today) he knew that he was abducting her. Nor can anything be said to undermine the authority of the notary Maurel; for he reports, either from Lazarina's father or from a friend of Lazarina's father, that the Vicar Guiol said that he had given no delegation for this marriage, nor had he ever wished to involve himself in this matter. Furthermore, the primary source from which the notary Maurel obtained this information seems suspect; or, even admitting the truth of the matter, it is quite reasonable to suppose that the Vicar Guiol said this out of prudence and fear, lest he incur the penalties that the French civil law decrees against priests who celebrate a marriage ecclesiastically before the civil ceremony. After these things, how much weight should be given to the objection that, in the commissary letter from the parish priest of Mantel to the parish priest of Saint Maur, no explicit mention is made of the delegation received from the Vicar Guiol, is easily understood. Although it may be plausibly maintained that the words "all the powers that are in my possession" do not obscurely indicate to the parish priest of Mantel that he is committing himself to the parish priest of Saint Maur to something other than his ordinary power. Nor does the defender consider that anything is done to cast doubt on the existence of the delegation, as is still objected on the other hand, namely, that the priest Gignoux is the only witness to the given delegation; but this very Gignoux could have acted "very lightly," as, according to the testimony of the priest Broglie, it is said that Emus Mermillod himself once said. Since, in the first place, the letter of the priest Broglie, which was discovered during the heat of the litigation and is extrajudicial, seems to be of no importance, especially since Emus Mermillod himself, in a special letter to the Sacred Congregation, rather disavows the same Gignoux as "a parish priest distinguished by zeal and prudence." That the priest Gignoux is the only witness to the given delegation, does not harm. For, according to Barbosa, *De off. et pot. Episc*, allegation 32, number 128.

[*Latin ed. p. 460*]

460 AQUÉN. OR MASSILIEN. Book 3, chapter 37, paragraph 5, Mascard, canon 984: We know that the one asserting that the permission of

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the proper parish priest was not required for the marriage, and that this permission did not occur, bears the burden of proving it, when it is opposed by a third party. For, where a marriage has been contracted, it must be proven that the proper parish priest did not intervene, nor did the permission. However, in this case, it is by no means proven that this permission did not occur; for Gignoux expressly affirms that he received it, and the Baron d'Outhoorn confirms it. A vague mention of this is made in the letter of the parish priest of Mantel to the parish priest of Saint Maur. And if the parish priest of Saint Maur did not make a record of this in the parochial registers, it happened so that the Vicar General Guiol might avoid the penalties prescribed by French civil law. If someone were to suspect that this matter was not mentioned in the parochial registers because authentic documents pertaining to the matter were removed, he would not seem rash; for some have indeed been removed, and the Ordinary himself laments this. Granted the truth of the delegation, the marriage, according to the defender, is valid on two grounds: firstly, because it was celebrated before a legitimately delegated person; and secondly, because the delegating party himself was present. But that the priest Luder was a legitimately delegated person clearly follows from the very extensive formula by which the Vicar Guiol transferred his authority to the priest Gignoux. For, when "the Ordinary, delegating, grants the power to delegate, it must be held that the delegate of the lower judge can delegate," as Sánchez, in *De Matrimonio*, book 3, chapter 31, expressly states. Therefore, since the Vicar Guiol granted Gignoux the power to assist at the marriage, either by himself or by someone designated by him, the presence of the priest Luder must undoubtedly be considered legitimate. Furthermore, the priest Gignoux himself was present. And although he was there only as a witness, nevertheless, according to the defenders of the marriage, his presence should be considered sufficient, "because even before a parish priest, with fraud and deceit, called to that purpose, or even expressly dissenting and fleeing, or being forcibly detained, or with his ears closed so that he could not hear, the marriage is valid."

[*Latin ed. p. 461*]

"AQUÉN. OR MASSILIEN. 461: Marriage is contracted; the presence or intervention of a priest is sufficient, and consent is not required; provided that the priest and the witnesses understand, or are able to understand. *De Luca Discep. 26 n. 27 Adn. ad S. Conc. Trid.* This is also the opinion of the Holy See, as found in *Romana Matr. cor. Ursino, 4 Feb. 1869*, according to De Luca, *Mantissa decis. 5, lib. 14*, where the authority of the Sacred Congregation is also cited, which in *Ciennen, 26 July 1582* decreed that "marriage is not valid if the priest did not understand, unless he pretended not to understand," and in *Sarzanen, 16 February 1684* declared that marriage is valid, even if the parish priest did not understand the words of

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the bride, provided that, according to the disposition of civil law, it can be legitimately concluded that she consented. But even if this were omitted, and even if it were granted that the presence of the priest Gignoux, being entirely formal, was useless in itself and directly, it was nevertheless indirectly useful, inasmuch as the priest Luder, who celebrated the marriage, strengthened his authority through a certain tacit approval present at the time, which, as Sánchez teaches in *De matr., lib. 3, disp. 35*, is very useful for the validity of the marriage. Furthermore, the defender argues that, even entirely setting aside the question of delegation, the marriage must be considered valid, because the priest Gignoux stated that the couple, with the consent of the parish priest Mantel, had taken up residence in Vevey; and that the marriage was celebrated five weeks later. Moreover, since it is established, at least for one month before the marriage, that the couple resided in Vevey, the defender argues that that marriage must be considered valid, citing a well-known constitution addressed to Archbishop Goan. The defender cites the judgment of Perrone, which teaches that, in order to obtain a marriage, it is not necessary to have a residence with the intention of remaining there for the greater part of the year, but it is sufficient that one has resided in the parish for a period of one month. However, the Most Reverend Fathers will judge how much weight should be given to this opinion. But here, the defender of the sacrament does not prevail; but beyond..."

[*Latin ed. p. 462*]

462. AQUÉN, OR MASSILIEN, presents a compelling argument, concerning those who have the right to enter into marriage, but are entirely unable to approach the parish priest, as frequently happens in Gallus, especially during the tumultuous era of the Revolution; they can, with absolute certainty, validly contract marriage before witnesses, even without the presence of the parish priest, as Pius VI expressly stated in a letter to the Bishop of Lucionensem in the year 1793. Given this, the defender of the sacrament argues as follows: Examining both divine and ecclesiastical law, the Baron and Lazarina certainly had the right to enter into marriage; however, they were prohibited from doing so by civil law in Gallus; for Lazarina was then sixteen years old, and according to civil law, she was absolutely barred from marriage before the age of nineteen, and until the age of twenty-five, unless with the consent of her parents, which was not to be expected in this case; therefore, so that divine and ecclesiastical law would not be frustrated, and the betrothed would not be prevented from exercising their just right, they could validly contract marriage anywhere outside the country, as if by the law of vagrants. Regarding the objections raised concerning the vice of clandestinity, the defender, anticipating the argument concerning abduction, first observes that the Sacred Congregation has never decreed that abduction is a condition for validity. Since noth-

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ing new is presented today on this point, therefore, there are absolutely no reasons to depart from the previously held opinion. Furthermore, it is evident that the previous resolution of the Sacred Congregation was just, because the five witnesses who testify to the abduction are not all of advanced age. For example, Emmanuel Gavot speaks in a completely different and contradictory manner in his first examination compared to his second. This difference in speech seems to be more due to the actress's intention than to a concern for truth, especially since the different assessment of the facts cannot be excused or explained by the long passage of time between one deposition and the other, nor by the different age and greater experience of the witness; for a short time elapsed between the two examinations.

[*Latin ed. p. 463*]

AQUÉN. OR MASSILIEN. * * ' i ' i t 463 Furthermore, it is proven, not that she was abducted, but that she fled, indeed, at the urging and insistence, especially of Lazarina, in this matter. This is demonstrated 1. by the testimony of Aloysius Bonifay, who affirms that he saw and read letters written by Lazarina to Peter Marquet, and transmitted by a female servant, named Aemilia Gautier. This is confirmed 2. by public opinion, which originated not so much from the Baron, but from other, more numerous indications and arguments. Thus, for example, Sister Mary of the Most Holy Heart, who at that time was with her family in the parish of Mazargues, within the boundaries of which is the convent of Saint Margaret at Cahot, states that she heard that the Baron of Outhoorn had sent a letter to Lazarina through Aemilia. The same is affirmed by the vicar of the parish of Mazargues, Sister Rigaud of Saint John the Baptist, and Sister Mary of the Holy Family. These, indeed, provide other indications of a conspiracy to facilitate the escape; namely, the frequent and untimely lighting of a lamp in Lazarina's room, scraps of meat found before the vigilant dog's kennel, Lazarina's frequent and studious walks near the garden wall, through which the abduction or escape subsequently occurred; all of which were carefully noted by the nuns and students who were present in the monastery at that time. Indeed, Sister Mary of Saint Dominic reports that, after Lazarina returned to France, while visiting the nuns of the Cahot establishment, her former superiors, she confessed openly that she had frequently left the convent with the Baron. If these things are added to the audible sounds heard at the time of the abduction – the girl's entry into the dining room and her sudden departure, without even tasting food – and then the fact that Lazarina made no complaint in any writings about suffering violence, nor did she make any complaint about abduction to her mother, to her relatives, nor to the nuns, and this for many months and years; then, it is certainly reasonable to doubt the existence of an abduction. Indeed, it may be said that Lazarina was so closely guarded by the Baron at that time that she

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lacked the opportunity and the freedom to write about it. Since it is highly improbable, indeed morally impossible, that the Baron...

[*Latin ed. p. 464*]

464. AQUÉN. OR MASSILIEN. For several months leading up to the marriage celebration, the young woman has been so vigilantly watched that she has not even been allowed to use her own freedom, nor to write to her mother or anyone else at will. Furthermore, assuming that Lazarina consented to the elopement or abduction, the defender judges that the impediment has been removed, for "an abduction which falls under the decree of the Council is not to be considered if: 1. a man, without deceit, takes a woman away, because the marriage agreement could not be concluded due to the opposition of the parents; 2. nor is it to be considered an abduction if not a man, but a woman, incites a man to take her away." In these two cases, it is more appropriate to speak of the woman's elopement with the man, in order that they may more freely contract marriage, than of an abduction. Thus, Avanzini in *Ephemeris Acta S. S.*, vol. I, p. 54, whose conclusions are highly praised and extolled by Ballerini in the notes to Grury *De Matr.*, u. 857. Having considered these matters, the following questions were proposed: I. Should we adhere to or depart from the decisions regarding abduction in this case? And, to the extent that the answer is affirmative regarding the first part, and negative regarding the second part. II. Does a marriage nullity exist under the head of clandestine marriage in this case?

RESOLUTION. The Sacred Congregation of the Council, after mature consideration of all the premises, on August 9, 1890, responded as follows: To I: Undecided. To II: Negative (1). (1) The same question, proposed under the doubt of whether a marriage nullity existed, especially due to the abduction, was referred to Vol. XXI, 593. rito.

[*Latin ed. p. 465*]

465 MILAN. MARRIAGES. August 9, 1890. Session 24, chapter 1, On Reforms. SUMMARY OF THE CASE. A certain Victorius Zacconi, a young coachman from Milan, began to court a young woman named Virginia Pozzi, who was 16 years old, and was addicted to frivolous amusements and intricate fashions. After about a year, when the young woman reciprocated the man's affection, discussions about marriage began between them. However, the records of the proceedings indicate that, before the marriage was celebrated, both Virginia and her parents were warned and informed of Victorius' probable impotence. Nevertheless, whether for this reason or another, the matter that was most important was entirely overlooked. And so, on October 3, 1885, in Milan, in the parish church of St. Gottard, the marriage of Victorius and Virginia was celebrated. But after only two years, that is, on August 1, 1887, the woman suddenly fled her

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husband's home, went to her mother, and without delay initiated legal proceedings for the annulment of the marriage, based on the husband's impotence, before both civil and ecclesiastical tribunals. The civil case was quickly concluded; for the secular court, after a thorough examination of Victorius' body by the highly skilled surgeon Achille Turati, on February 2, 1888, issued a judgment declaring the marriage of Victorius and Virginia to be absolutely null and void, due to the husband's impotence, which was antecedent and permanent. However, the ecclesiastical cause encountered greater difficulties. For the man absolutely and completely refused to undergo further examinations, and it was barely and with great effort that he could be persuaded to appear before the ecclesiastical judge. The wife, on the other hand, confessed that she had recently engaged in carnal relations with another man, and therefore could not provide proof of her virginity. Finally, see the Records, Volume XXIII, page 272, line 30.

[*Latin ed. p. 466*]

466 MEDIOLANEN. The seventh part of the testimonies presented. After so much testimony from the Archbishop, the trial was deemed deficient in evidence. It is most earnestly affirmed that, through a vow, the expertise of a physician, along with his knowledge and honesty, is of the utmost importance in matters concerning the health of individuals, as is fully explained in Volume IV, Book 1, Chapter 15. Concerning Virginia, and her husband, Victorium, it is stated that, on the 14th of the month, at night, he was deemed inept for the purpose of procreation, and, after a thorough examination, it was determined that he was, in fact, impotent, and that there was no cause for doubt. The testimonies of all witnesses, including those of Reiifenstuel and Pozzi, after mature examination of the proceedings, attest to this. The doctors, having been questioned, stated that, in their opinion, a complete and thorough examination, lasting for a biennium, should be conducted, and that, under oath, they would affirm that no perforation had been made; nor do they recall having observed any semen. The same Consultant, after having considered the aforementioned depositions of the Congregation, and for this reason, on the 4th of February, after considering all that had been presented, concluded that, in the matter of S. Schmalzgrueber's alleged impotence, the proceedings for the dissolution of the marriage should proceed. The Consultor of the Curia, Dr. Sedis, having previously warned that such matters are often subject to the judgment of the mind, and that all remedies are at the disposal of the parties involved, rendered his opinion.

VOTE OF THE CANONIST. After carefully reviewing the proceedings, the Canonist rendered his judgment, stating that he considered Victorium to be incurable, and that the marriage bond should be dissolved. Turati, for the examination and zeal, transmitted the opinion of the defender. Only a few are able to understand these matters.

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Furthermore, the woman, Virginia, gave her testimony, affirming...

[*Latin ed. p. 467*]

MILAN. 14G / Thus, the assertion of the woman is supported by the man's response to the eighth question of the witness: that the Virgin shed blood from her pudenda from the first night of marriage, due to the introduction of his virile member. For in other responses, as in the fourth and last, he contradicts himself by admitting his own impotence. Victor, in the aforementioned response, stated that he introduced his virile member into the genital member of his own wife. However, he does not state that the marriage was consummated; for consummation is understood as a perfect union, namely, that in which the man at least sows seed. Hence, Reiffenstuel, loc. cit., n. 14, states that there is a true impediment to consummation if "the man, whether due to his own defect, or the woman's defect, or entirely, cannot, or does not, sow seed within the woman, even though he is able to approach her and penetrate her." Finally, it is certain in law that, if spouses are discordant, the testimony of that one is considered true to whom the other testimonies agree, which do not confirm consummation; indeed, the lack of consummation of the marriage will appear sufficiently proven from what follows. The testimony of Virginia Pozzi is corroborated by the testimony of her own mother, Mary, who, under oath in her response to the fourth question, states: that she saw Victor naked, on occasion of a visit, and furthermore, she submitted the same to the judgment of a doctor who stated that Victor was not fit for marriage. Having learned these things, the same Mary urged her mother, Victor's mother, not to celebrate the marriage, which she was unable to prevent. Having entered into the true marriage, he confesses in his response to the fifth question that it had not been consummated due to the aforementioned Victor's impotence. Victor's mother also testified, questioned by the judge in question number 8, that she had seen her son as a child, and that his member was small and shrunken. All of these things gain greater weight from the testimony of Augustine Rosa, who, after being admonished about the law concerning the sanctity of the oath, under oath, confessed that he knew Victor, and his parents, from whom he learned of his son's impotence. The legal testimonies, which we have presented, are to be further...

[*Latin ed. p. 468*]

468 MILAN. The matter was brought before the court concerning the legal examination of the bodies of both spouses. However, the ecclesiastical judge could not order the examination of the woman; this examination would have been superfluous, since there were no longer any signs of virginity. For the woman herself confessed that she had lost her virginity through intercourse with a carpenter, who lived in a house near her own. She stated that she had done this due to sensual desires aroused

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by her husband. This fact is testified to by Victor and by the parents of both spouses. The Doctors teach that the omission of the woman's examination does not present any difficulty, whenever it is clearly established by solid reasons that it would have been impossible for the woman to be recognized by the man. This impossibility was perhaps safely established, if the man could have been compelled by the ecclesiastical judge to undergo an examination of his own body by experts appointed by the same judge: which he continuously refused to do. Although the physical examination of the man was not carried out by experts appointed by the archiepiscopal court of Milan, nevertheless, in the process records, there are testimonies from two doctors, Stephanus Campiglio and Achilles Iurati. The first, Victorium, examined before he was married to Virginia. The second, examined after the marriage had begun, by order and authority of the secular power, before the sentence of nullity of the civil contract was pronounced. The aforementioned doctors, trustworthy and experienced in their art, as testified by the Archbishop, after being legally questioned by the ecclesiastical judge, under oath, state that Victorium Zacconi suffers from impotence, both in the ability to have intercourse and to procreate; that this impotence is congenital in him, or at least predates the celebration of the marriage; and that this impotence is permanent and incurable by medical means. They draw these conclusions from the examinations they made. The opinion elaborated by them was transmitted to the Archbishop of Milan, who, following instructions received from the aforementioned Reverend Defender of the Bond, by virtue of his office, again summoned Achilles Iurati and Stephanus Campiglio: who, being legally questioned, were asked whether they could testify to the diligent examination of the opinion of the doctor of medicine, Tacchi-Venturi.

[*Latin ed. p. 469*]

MEDIO LANENSIS. It is reported that Victorium Zacconi was afflicted with certain vices, which, according to the aforementioned opinion of Tacchi-Venturi, would undoubtedly render him impotent. Clearly, explicitly, and distinctly, under oath, they testified that Victorium Zacconi was afflicted with such organic vices, which, according to the judgment of Doctor Tacchi-Venturi, certainly cause his impotence. Achilles Iurati also testified in almost the same words. After these things, whether from the sworn testimonies of the spouses, and of their parents, or from the attestations of the Milanese physicians, confirmed by the opinion of D. Tacchi-Venturi, it appears that there is solid and complete proof in this case of the certain, incurable, and perpetual impotence of the aforementioned man. Therefore, a judgment should be pronounced for the nullity of the marriage. However, since the Sacred Congregation of the Council, even in cases in which there was fuller proof of the man's impotence, as in the case of Burgos, S. Domnini, on April 21st and August 25th, 1877, and in

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Florence, on January 27th of the same year, chose to proceed through the way of grace, leaving aside the way of justice, namely, consulting with the Most Holy Father for a dispensation from a marriage that is valid but not consummated, it must be considered whether, in our case, given the non-consummation of the marriage, which, from what has been said, seems sufficiently proven to me, there are grounds for dissolving a marriage that is valid but not consummated. And after examining the procedural records, it is impossible to induce the woman to return to live with her husband, having left her paternal home, in order to re-establish conjugal life with her own husband. Indeed, as the Archbishop confesses, the restoration of conjugal life, if it were possible, would only bring inconveniences and scandals to the city. The woman is in love with another man; hence, there is a danger that she may enter into a civil union with him, since, as we mentioned above, the civil contract entered into with Victorium Zacconi has been dissolved by the ecclesiastical authority.

OPINION OF THE THEOLOGIAN. It is asked, he says, 1. Whether from the records, Victorium's impotence so clearly results that we can be certain that the marriage in question was not consummated; 2. Whether there are serious reasons that can induce the Supreme Pontiff to grant a dispensation.

[*Latin ed. p. 470*]

470 MILAN. Although I am certain that the Milanese court employed every diligence to ensure that the proceedings were conducted as fairly as possible, I cannot understand why that man was not summoned as a witness, since it is established that he was the first person with whom Virginia had dealings. For the court could not fail to have known, from the sworn testimony of this man, and from the examination of the woman herself, to what extent!, whether he found her to be a virgin or not. Indeed, Victorii's mother asserted that this man had revealed to her that he had found her to already be defiled; but who would give credence to a woman who, in her testimony, is constantly contradicting herself, in order to protect the marital honor of her son? It is easy to understand what purpose this insinuation serves. If this man found her to be corrupted, who could have caused this damage to her, except her husband? Although more conclusive evidence is lacking in the present case, evidence that could have been obtained from the physical examination of both spouses, and from the sworn testimony of a seventh witness, we can nevertheless demonstrate from the records that Victorii's prior and perpetual impotence is sufficiently proven, so that the consummation of the marriage can be declared null and void. The first argument that is presented to me is Victorii's own conduct. For, as is clearly evident from his own testimony, and from that of others, although Victorii greatly desires Virginia to be faithful, he has left no stone unturned in his efforts to bring her back to the conjugal home. Indeed, in order to achieve

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this end, and to prevent the dissolution of the marital bond, no means could have been more effective for him than to submit himself to a physical examination conducted by three experts chosen by the court, who, having duly ascertained his ability to perform the duties of marriage, and having confirmed this by oath, would have persuaded the judge to proclaim the validity and indissolubility of his marriage to Virginia. Why, then, did he so vehemently reject this remedy, which was uniquely effective for his purpose, to the point that he asserted that he would rather take his own life than submit to a new physical examination?

[*Latin ed. p. 471*]

MILAN. This reluctance is claimed to be due to his impotence, and does this inspection, which is the primary examination before marriage, confirmed by the magistrate and further examinations, not serve as an argument for both of us, and this unanimously, that the prior examination of Victoria's body, made by them at the Curia, resulted in a physical condition, but a civil one? For the Archbishop, indeed, this is an extrajudicial examination, but it truly has great weight, and the experts, as the Most Holy Congregation certainly knows, in the aforementioned case of Tacchi Venturi, joined by experts from Milan, in a written report confirmed the impotence. For they argued that he, 1. had an extreme deficiency of seminal fluid, and the semen was of a stony consistency; 2. had atrophy of the testicles. The first argument is the atrophy of the glands, which is an excellent indication of impotence, and a doctor, asked for his opinion on this matter, declared that he was incapable, and that this should be determined by a judicial examination, and that three inspections should be held, as was constituted by Campiglio. These inspections always specifically concern the impotence of Victoria. Two medico-surgeons, under oath, certainly provided expert testimony, and Doctor Turati affirmed that he had become intimately convinced of this. But it is not, rather, that the three conditions, namely, the hardness, the duration, and the lack of erection, coincide with an innate defect, and the praised doctor excludes this, because the entire body is affected, which impedes its development, and other characteristics are present in Victoria. To this judgment I gladly adhere, so vehemently, because otherwise I could not explain how the desire for copulation could be aroused daily, as it is. He also considered the vice of *hypospadias* to be certain, and did not assert that it should be considered alone as an argument for impotence.

[*Latin ed. p. 472*]

472. The Milanese [MEDIOLANENSIBUS] declared it physically impossible for the emission of semen into the female vagina, when the urethral passage is closed at the root of the penis. However, the ultimate and decisive argument was derived from the fact that, due to a certain rigid fold

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in the lower part of the male member, its erection is hindered, a condition natural to the man. The force of this impediment was recognized and admitted by an eminent expert in his field. This opinion of the esteemed doctor was communicated to two Milanese experts, so that, after a thorough examination, they might clearly and explicitly declare before the archiepiscopal court whether the conditions required by him for safely admitting Victoria's impotence were present in her case. They unanimously affirmed, under oath, that the matter stood as such. From this, it is clear that the expert Tacchi Venturi, along with the other two, agreed on the admissibility of Victoria's impotence according to the logical rule: "When the condition is verified, the truth of the condition must be affirmed." To this can be added the opinion of the military tribunal, which declared Victoria unfit for military service due to the lack of proper development of male characteristics. Taken together, all these elements provide, if I am not mistaken, sufficient grounds to assert that Zacconi's impotence was prior, permanent, and established. Now, it must be inquired whether those two conditions are present in our case, which are required for obtaining a dispensation, namely, the lack of consummation of the marriage and a grave reason that can spontaneously lead the mind to grant a dispensation. Indeed, although in our case all the judicial proofs required by law may be lacking, the very impotence of Victoria, asserted by three experts and confirmed by oath, is sufficient to remove all reasonable doubt regarding the lack of consummation of the marriage, according to the principle: "From the inability to, it follows that it is not." Therefore, it is as certain that the marriage was not consummated, as it is certain that Zacconi was unable to consummate it. This same, sufficiently proven, male impotence provides a grave reason for granting a dispensation, because the spouses would be continuously exposed to the danger of incontinence. Do not object that...

[*Latin ed. p. 473*]

MILAN. 473 This impotence of the man has not been judicially proven; therefore, all doubt regarding the validity of the marriage cannot be excluded. In such a case, according to the rule of law, one must always judge concerning the validity of the marriage: for Reiffenstuel writes, in book 4, chapter 28, "It proceeds when the marriage can be consummated and have its effect, namely, the good of offspring and the remedy of concupiscence; not, however, if it cannot have this effect, as happens in the case of impotence." Aliam also adduces the reason given by Conscius, in book 3, chapter 2, of *De separ. tot.*, to indicate that a dispensation should be granted in cases of doubt. "For, since it is a question of an injury being inflicted, and a prejudice directly against the sacrament of marriage, the opposite rule applies, namely, that in doubt, one must stand for the exclusion of the marriage: and with good reason, because in the external forum, in which the Church judges, it is more tolerable and more honest to dissolve the

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marriage according to canonical laws and proofs, and according to the discipline of the Church, than to give, under the name and law of marriage, an opportunity for incontinence, and to foster continuous sin." Another reason is the spiritual good of the woman. For this young woman, wishing to provide for her future needs, has found another man, a virtuous and honest man, as testified by the Archbishop, who is ready to take her as his wife.

OBSERVATIONS OF THE DEFENSOR EX OFFICIO.

"Most blessed counselors," says the defender of the bond, a theologian and canonist, "although they do not dare to affirm that the marriage is invalid, they believe that, through the apostolic dispensation, Virginia should be assisted. But, if I am not mistaken, this remedy of grace is more suitable for all cases than for the present one." Indeed, first, the petition to the Roman Pontiff, which is necessary, is lacking. Secondly, the consummation of the marriage, which provides the basis and foundation for the remedy of grace, has not been more thoroughly investigated than the very nullity of the marriage itself. Furthermore, it is confessed that the virginal state of Virginia has been restored: and the spouses, from October 3, 1885, to the day...

[*Latin ed. p. 474*]

474 MILAN. August 1, 1887. "I have been engaged in marital relations with him every night, and I have never opposed it," said Virginia. Therefore, if any document remains from Virginia after the shipwreck, it is a declaration that the marriage is invalid due to the asserted impotence of the man. But the arguments brought forward to this end neither constitute proof, nor even the beginning of proof. For the seventh witness is replaced by three witnesses. Namely, the mothers of Virginia and Victoria, and a certain Augustine Rosa. All of them. The experts fulfilling their duty are Stephanus Campiglio and Achilles Turati. The former, before the marriage, which is now in dispute, touched Victoria's body, as if in jest; the latter performed the same act under the authority of a lay magistrate. The examination of Victoria's body by the experts, just mentioned, is not only flawed because it was conducted outside of a legal proceeding and without the precautions prescribed to prevent fraud, but also because the "impotence with atrophy of the testicles," which is all that Doctor Campiglio mentions, is by no means an impediment to the consummation of marriage, as the most distinguished physician, Tacchi Venturi, who was called upon by his office, testifies. As for what Doctor Achilles Tarati reports, Tacchi Venturi rejects everything; he considers only the rigid fringe on the lower part of the penis to be worthy of consideration; and this abnormality, he maintains, is not something that should be considered suitable for preventing the erection

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of the member, nor is it curable by medical arts. I do not deny that Doctors Campiglio and Turati, knowing the judgment of Aesculapius Tacchi Venturi, might testify in unison that the aforementioned rigidity is that which impedes coitus. But if the Milanese doctors discovered and commented upon such an enormous defect in the examination of Zacconi's body, I ask you, in the first examination, did Achilles Turati say anything about it other than in passing? And did Stephanus Campiglio make absolutely no mention of it? How is it possible that the doctor, especially Campiglio, remembers, four years later, what he did during that very examination?

[*Latin ed. p. 475*]

MILAN. 475. To this is added the fact that the account of Virginia's conduct, presented as a fabrication to conceal Victoria's impotence, demands examination. Observe how they ensnare themselves in so many falsehoods, from which they will never be able to extricate themselves. Not even the most credulous Jew would believe that the garrulous girl Apella could have concealed a man's impotence with such severe and prolonged silence on the first night! That Virginia, a virgin, should have lived in concubinage with a man so inept for nearly two years! Indeed, Virginia's mother testifies under oath that Virginia remained in the house of the man, unless Victoria's father had threatened to harm Virginia. Finally, Virginia added that she had lost her virginity with a carpenter. Truly, this carpenter, according to the testimony of Victoria Zacconi's mother, who appears to be deeply concerned with the thorough investigation of the truth, affirms that Virginia was already lacking the flower of virginity at that time. If Victoria left Virginia untouched, as if she were the goddess Minerva, I do not see why Virginia would rather denounce that carpenter than the true perpetrator of the rape. With these observations in mind, the question to be resolved is: Does a marriage nullity exist in this case?

RESOLUTION. The Sacred Congregation, after deliberation on August 9, 1890, decided to respond: Affirmative.

[*Latin ed. p. 476*]

476 LUCEORIEN. ZYTOMIR. MARRIAGES. On August 9, 1890. Session 24, chapter 1, concerning dispensations. SUMMARY OF FACTS. The case concerning the dispensation for marriage in Zytomir, initiated by Adam Bronislao Mielesko-Malinzkiewicz with Lucia Arcadia Mieleniewska, was again presented. Since it had been proposed on September 10, 1887, according to the usual form of petition, the Sacred Congregation for the Holy Office decided: "Let the process be extended and a new process carried out, observing the prescribed form of the Constitutions of Benedict XIV and the instructions of the Sacred Congregation, and according to the observations to be made by the defender of the marriage by virtue of his office." Now, after the new process has been completed, and the case is presented again,

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the facts and circumstances that preceded this are briefly repeated. Adam and Lucia intended to marry on July 2, 1880. The ages of the betrothed were different: the man was 50 years old, and the woman was 26; but they were consumed by mutual love, and everything seemed to portend a happy marriage. However, unfortunately, discord quickly arose between the betrothed, and it grew to such an extent that, after about five months, the woman bid farewell to her husband and returned to her mother. Indeed, after a few days, the woman from Zytomir approached the Ordinary with a sorrowful letter, requesting that her marriage be declared null, as if it had never existed. She asserted that the man had always been incapable of consummating the marriage during the entire time, although he had tried with all his might, even using medicines, to achieve it. Therefore, after the tribunal was constituted, the plaintiff was first summoned and examined, and she, adhering to her sorrowful letter, stated that the marriage had never been consummated due to the fault of her husband, whose member always remained without vigor, and that she had complained about this matter from the beginning to her mother, father, maidservant, and finally, before leaving her husband, even to others; she had seen the husband using remedies to restore

[*Latin ed. p. 477*]

LUCEORIEN. ZYTOMIRIEN. 477, and to daily employ means to arouse [sexual] powers: but that he had neglected this matter to a great extent, which had been reproached to him not once, although he had never openly accused him of impotence, except in letters after he had separated from her. Seven witnesses were then summoned from the side of the woman, who both confirmed and amplified her statements; for they spoke with unanimous agreement concerning Adam's lascivious or unrestrained life from his earliest youth, concerning the acquired vice of impotence that resulted from it, concerning his public reputation for impotence, concerning the medicines and stimulants that he used to remedy this defect, and finally, concerning the need to heed the actress's words. Indeed, all of them, among whom the actress's mother, the priest Nireziadkowski, and the doctor Krzeskowski, stood out, declared, either directly from the actress or from the accounts of friends, that from the beginning, the man had been unfit for his marital duties and that the marriage had not been consummated. The man, however, being the accused in the case, was present, and among other things, stated that he had loved and had been loved by his wife; but he adds: "A person hostile to me, the priest Nireziadkowski, had great influence with her, who, although he saw us almost every day and enjoyed full authority with Mrs. Malinzhiewicza, not only did not cooperate with our mutual harmony, but also secretly plotted against me." He further stated that on one morning, his wife had asked to be taken to her mother's house for breakfast; and on that occasion, a quarrel occurred. The

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next day, he said, she informed him that she would never return to him. And when asked whether and how often he had attempted to consummate the marriage, he replied: "Two days after the wedding, and then only twice; but I was unable to complete the act, I believe, because of my timidity and a certain reverence for my wife. When I was unable to complete the act, I consulted the doctor Kamieski; but when the remedies prescribed by him were harmful to me, he concluded that I was healthy, which I myself experienced, having at all times relations with other women; but I was timid towards my wife." When asked when and with whom...

[*Latin ed. p. 478*]

"78. LUCEORIEN. ZYTOM1RIEN. Having been reproached by his wife with impotence, he said: "My wife made me aware of this through letters which she wrote to me the day after she left my house. Conquestus then stated that his mother-in-law came to his house shortly after his daughter's marriage, and remained there for several weeks, and that her presence caused difficulties between the spouses; that, moreover, he was forbidden to administer his wife's dowry, because he worked with other people's money; that this was a great burden for him and alienated their affections. And finally, he concluded: "I have nothing more to add, except that I am certain that our married life could have been happy and harmonious, if I had lived far away from those people who caused it, who called for an abnormal moral and material state. I am certain that this process is unjust; for I deny the cause for which it is brought, namely, my impotence." On the plaintiff's side, only four witnesses were presented. When they stood before the judge, they confirmed the plaintiff's words, saying that he could be believed, that he was worthy of trust, or that he deserved to be believed. Furthermore, the court summoned a doctor, Galli, and a certain Alexandrine Brantusiewicz, to refute certain facts mentioned in the plaintiff's testimony and asserted by her seventh witness, and which had greatly contributed to confirming the husband's impotence; but these, especially Doctor Galli, spoke very evasively. Moreover, the judge ordered that a record of the medicines administered to Adam during his marriage be taken from the books of the pharmacy; and when this was presented, it was judged by a council of university doctors that these remedies had been "prescribed by a doctor with the intention of restoring the action of the weakened genital organs." Finally, it was necessary to proceed to a physical examination of both spouses. But three doctors who examined the man declared him to be normally formed, and from the examination "nothing was found in him that would prevent him from consummating the marriage."

[*Latin ed. p. 479*]

LUCEORIEN. It was proven; the man had existed, and the inspection concerning the marriage had been conducted in a proper manner. The

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honest woman, after the discussion concerning the marriage, declared that she was not the wife of the man, and that he could not be her husband. The decree concerning the causes for nullity was issued in March of 1883, not after the consummation in Zytomyr, but before. Subsequently, the matter was brought to the attention of the Holy See, and it was responded that the marriage could be dispensed with, provided that the reasons for the dispensation were clearly stated. The arguments for the dispensation were examined, and no grounds for nullity were found, so the matter was sent to the Sacred Congregation of the Holy Office. The cause was presented on September 7th, 1887, but it was delayed. According to the instructions of the defender of the bond, the marriage was not null, and there were no other new reasons to annul it. Therefore, according to the instructions given above, a brief summary is presented. The Bishop, after examining the consummation and other matters, wrote to the Ordinary, requesting a dispensation, and he also requested a three-year experiment. On the 17th of the month, the three obstacles were examined, and the plaintiff stated that the marriage had been consummated, but that the man could not prove his impotence. "It was also found that the woman was sick and suffering, and that she had been placed in a state of notes concerning Luciani's ecclesiastical affairs in 1882. The chosen one, the actress Krseczkowshi, declared her carnal status, and the hymen was present. The medical examination of the woman's virginity was carried out, and the witnesses testified that there was a possibility of a minimum of impotence in this case. The consultants, after a completed physical examination, again discussed the cause, the vows, and the sacraments, and made observations. A Synopsis of the Discussion. THE OPINION OF THE CANONIST. The following question is proposed: "Should the Holy See be consulted in this matter?" The consultant said:

[*Latin ed. p. 480*]

480 LUCEORIEN. ZYTOMIRIEN. concerning a dispensation from a valid but unconsummated marriage. As is evident, here the consummation is presumed to be lacking, and the question is raised whether a dispensation is required, for which Schmalzgrueber points out that very serious reasons are necessary. *Ius eccl.* p. 4, tit. 19, and it is not sufficient to allege any reason whatsoever, but rather a completely serious one, because in those cases in which an obligation arises from divine and natural law, more urgent motives for a dispensation are required. 1. Whether the procedural documents have been properly completed, or, which is the same thing, whether they are infected with any substantial defect? 2. Whether, at least morally, it results that the man is impotent for perfect consummation? 3. Whether the woman has truly and without doubt remained intact and a virgin? Regarding the defects noted, it has been investigated that such cases are to be treated according to the norms

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established by ecclesiastical law. "The aforementioned norms for the completion of such documents are found in the well-known Constitution *Dei miseratione* of Benedict XIV, Mansella art. 3, to which is added the Instruction of the Sacred Congregation of the Council from the year 1840." Indeed, as the most astute defender of the law rightly observes, there are several things that were omitted from the prescriptions, and which seem to affect the validity, apart from the contradictions of the witnesses. However, it is true that these defects or omissions do not destroy the validity, and can be easily excused, as in other similar cases. As the pious Mother Church has not made it difficult, as noted by the learned Mansella: "The Supreme Sacred Congregation generally grants dispensations from the accurate observance of the aforementioned Constitution, provided that the substantial elements are observed." Therefore, although certain prescriptions may have been omitted, such as those concerning the oath of the midwives and doctors, or the seven-year period and the testimonies of the witnesses, which seem to contradict each other, and other noteworthy matters, these do not invalidate the substance of the documents, since the man's impotence and the woman's integrity, about which we inquire above all, are sufficiently discussed and proven, both morally and physically. As for the man's potency, he himself, under oath,

[*Latin ed. p. 481*]

LUCEORIEN. ZYTOMIRIEN. 481 asserts that he attempted to consummate the marriage, but was unable to do so; the woman, on the contrary, swears that she did not prevent the consummation of the marriage. Since the testimonies of both parties do not agree, the evidence rests on the testimonies of witnesses called from both sides. However, from these witnesses, nothing is gathered concerning the relations between Adam and Lucy, except for a certain alienation of spirit between them, and it is barely discernible that the imperfection of the union may have been the cause of the separation, to which is added Lucy's denial of having paid the debt that burdened Adam. But Adam himself confesses in his examination that he suffered from impotence, whatever its cause may be. The apothecary likewise confesses that he used certain remedies to arouse himself, when his member was inert; and the woman testifies, "blood never appeared after the attempted union." The witnesses also testify that they heard the same thing. From these testimonies taken collectively, a moral certainty seems to emerge that Adam was impotent for the marital act; and therefore, a serious doubt arises concerning the validity of the marriage, since it is essential to marriage that the spouses become one flesh, which cannot happen if they are incapable of true and perfect union. Thus, in general, the Doctors hold.

However, for the present, setting aside the question of validity, we must consider what seems to favor Adam himself: indeed, the witnesses scarcely testify anything about the union; Adam, on the other hand, speaks of his

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wife's instigators, or of his mother-in-law assigning him a separate room, etc., which do not seem to be of great weight, and which he himself supports. Nor does his confession favor him, that he had marital relations several times with another, or with other women, as he confesses; for he who was capable with a corrupt woman, could certainly not have been with a virtuous one. *Acta, Tom. XXIII. fasc. CCIXXII. 31*

[*Latin ed. p. 482*]

482 LÜCEORIEN. ZYTOMYRIEN. Concerning the matter; therefore, Lucy testified that her husband's member was inert during intercourse, and from this we understand that Adam, due to a weakness of his powers, was unable to penetrate the female organ. It seems that the reason for Adam's life should be added to what has been said, who, being idle and burdened by another's property, denied love to his wife, refusing her conjugal relations, and became cold: but everyone knows how much mutual love contributes to the regular exercise of marriage. The defender of the sacred bond, Zytomiriensis, strenuously and learnedly argues that the power for intercourse is inherent in Adam, but the advocate for Lucy refutes the arguments presented by the opponent. Therefore, everything seems to indicate that Adam Bronislai Mieleszko suffered from impotence, at least with moral certainty. But the question remains whether it is temporary or permanent? I do not doubt that the court, or the judges of Zytomyr, before this, were in doubt, and having suspended the final judgment, ordered a three-year trial, about which we shall speak later, for the spouses. The consultant continues: Lucy's virginity is physically and morally clearly proven by the testimony of those who, under oath and with religious solemnity, testify that an obstetrician, doctors, and others who have fulfilled all that is required for such an examination, have testified; that is, in Lucy, after she left the bridal chamber, signs, characteristics, and certain proofs of perfect virginity were found, "and a strong argument is taken from the integrity of the hymen, which could not exist where a man's intrusion had completely broken the barrier; therefore, a virgin cannot be corrupted without the tearing of the hymen, Act. S. Sedis vol. XVI p. 219." On the contrary, in the case of a man, morally certain signs of impotence are present, who, although he sleeps with his wife, has never been able to consummate or complete the conjugal act. Therefore, from the proceedings, it is sufficiently evident both the lack of consummation due to impotence, and the wife's virginity, which is clearly demonstrated. But the court of Zytomyr certainly doubted the truth of the impotence, whether it was temporary or permanent.

[*Latin ed. p. 483*]

LÜCEORIEN. ZYTOMIRIEN. The number 483 was estimated, and in this hypothesis, abstaining from declaring the marriage null, a three-year

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trial was ordered. Should one adhere to this opinion, or should one consult the Most Holy Father regarding a dispensation? Lucy urgently requests this. The theological and canon law consultants are in favor of obtaining a dispensation. The former holds that the marriage was validly contracted, but remains valid and unconsummated, and therefore there is a place for a dispensation; the latter, however, admits that the impotence in the man is morally certain, but not judicially, due to the lack of complete proof; nevertheless, he concludes with the theologian in favor of a dispensation, or rather, for the dissolution of the marriage, since he considers it null and void. Therefore, after a preliminary examination of the facts, which is often granted by this Sacred Congregation in response to a doubt raised in the matter, it is my opinion that one should consult the Most Holy Father regarding a dispensation, or dissolution, and it would be improper to bring his authority into question in this matter. But in a matter of such importance, just and indeed very serious reasons are required, since we are dealing with divine, natural, and ecclesiastical law, which affirm the indissolubility of marriage, as is evident from the 24th session of the Council of Trent, and from St. Thomas, Supplement 67, 2. In the present case, there are not lacking grave and just reasons. Granted that there was reason to doubt the impotence with the Zytomerian court, in the presence of this doubt, Cosci, with many others, book 3, chapter 2, § 386, states: "One must stand for the exclusion of marriage, for this very reason, because in the external forum... it is more tolerable and more honorable to dissolve the marriage through canonical proofs, and according to the discipline of the Church, than to give, by name and by law, an opportunity for incontinence." Therefore, adds the esteemed Mansella, Dis. 111, 35, "This Sacred Congregation, for this very reason, and perhaps for this very reason alone, has not infrequently consulted regarding a dispensation..." No less weighty is the discord of spirits and the apathy induced, and certainly increasing, between the spouses, and from this, the impossibility of reconciliation. Furthermore, Lucy, due to the husband's impotence, which he perhaps had previously, and was trying to overcome with medicines, was subjected to forced continence, with danger to her soul.

[*Latin ed. p. 484*]

484 LUCEORIAN. ZHYTOMYRENSIAN. To these, add the fear of future scandal, when the man's impotence is not unknown, but rather widely known, and the consequent suspicion regarding the validity of the marriage; and this leads to great common detriment, as Corrado, Sánchez, and Cardinal de Luca maintain. Therefore, just and honest reasons are not lacking, so that the Pontiff may grant a dispensation concerning this matter, namely, regarding a marriage that is valid but not consummated. With these things noted, it is clear that the judgment of the ZHYTOMYRENSIAN court and the preliminary acts should be examined, and that, fol-

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lowing the example given in volume XVI of the Acta S. Sedis, page 216, regarding a dispensation for a marriage that is valid but not consummated, the matter should be brought to the attention of the Most Holy [Father]. In one case from Olinda, which is very similar to our own, and discussed in the year 1883 concerning the second doubt: "Whether the Most Holy [Father] should be consulted regarding a dispensation for a marriage that is valid but not consummated," the Sacred Congregation, after deliberation, responded: "Affirmatively," with the following note appended: "It is clear that the Sacred Congregation has reached a moral certainty regarding the lack of consummation of the marriage, but has left the question of the man's impotence untouched, concerning which it has not laid aside all anxiety, as the formula 'vetito viro transitu' [forbidden to the man from entering into marriage] sufficiently indicates." Acta Sanctae Sedis, volume XIV, page 226. Therefore, since the same doubt is presented in our case as was presented in the Olindense case, I believe that the same response should be given, namely: "Whether the Most Holy [Father] should be consulted regarding the dissolution, etc.," I answer: "Affirmatively." If it pleases the Most Eminent Prelates to impose upon Adam a prohibition from entering into new marriages without recourse to this Sacred Congregation, I will not object, since in this case, the impotence is morally certain; but it is not equally certain whether it is temporary, or absolute, as the court suspects, prescribing a three-year trial. However, it is inappropriate to impose such a trial, which is no longer commonly imposed by the Apostolic See, "because the malice of the people is increasing day by day, and it has been deemed necessary to abstain from such examples, etc.," and this is taken from several resolutions.

[*Latin ed. p. 485*]

LUCEORIEN. ZYTOMIRIEN. 485, according to this Sacred Congregation, as we read in volume XVI of the Acta Sanctae Sedis, page 219. OPINION OF THE THEOLOGIAN. This person states that a doubt is presented for resolution: whether it is necessary to consult [with this Sacred Congregation] regarding a dispensation in the case of "a marriage already contracted but not consummated between Adam Bronislai and Lud a of Arcadiae?" The esteemed Defender of the Marriage vigorously opposes the affirmative opinion, primarily because the principal fact, namely "the lack of consummation," is not established; indeed, the process concerning this matter lacked the prescribed norms in several respects, as established by Benedict XIV in the Constitution "Dei miseratione." However, in the present case, the Sacred Congregation has before it a corrected process, in which the examination of the woman's body was carried out by three sworn midwives, after prior instruction by a physician and surgeon, and in which all that is prescribed in the aforementioned constitution was observed. And from this examination, it appears that

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Luciam was and is still intact, because she lacks any of the signs by which virginity is usually demonstrated. Furthermore, the testimonies presented in the latest process agree with the depositions given in the previous process, which, although not fully judicial in nature, nevertheless deserve credence, because the witnesses are all of mature age, and the omission of the oath by two of them was merely an error of judgment, arising from the fact that they had already performed the oath of office. Moreover, Adam admitted in the interrogation conducted with him, and this confirms what is stated regarding the medicines and remedies that he fruitlessly used in an attempt to consummate the marriage. All the allegations concerning the "lack of consummation" are so consistent and coherent that they completely exclude the possibility of a "reasonable doubt"; therefore, I believe that, with regard to this part, the petition of the plaintiff should be upheld, and it should be considered certain that "the marriage between the spouses was never consummated." Among the just causes for a dispensation in a marriage already contracted but not consummated, the Doctors include "supervening impotence."

[*Latin ed. p. 486*]

486 LÜCEORIEN. ZYTOMIRIEN. namely, "before consummation." Clericatus. loc. cit. no. 45*. Sánchez, disp. XVI n. 6. A fortiori, a just cause will exist if impotence preceded the marriage and persisted to such an extent that it can be said with certainty. Adam explains the vain attempts at copulation by moral causes; but the reasons alleged by him for this purpose do not deserve either credence or discussion, as they are either contradictory or absurd. Neither timidity, nor an ecstasy of joy paralyzing the man, can be conceived in a vigorous and robust man of fifty years, accustomed to venereal matters, especially when his wife offers no obstacle and presents herself as pleasing and amiable: which can be inferred from the fact that she confessed that she had been "deceived in everything." On the contrary, Adam acknowledges his own incontinence in his testimony, which is amplified in relation to the patron Lucy, from which it appears that his continuous lasciviousness, from his youth, was a well-known thing. Furthermore, it is affirmed that he himself sometimes suffered from a venereal disease; and the causes of his impotence are far more probable than those which he recounts, together with everything that is narrated about his presence in the house of his father-in-law. For his mother-in-law remained there for only a few weeks, and why did she not consummate the marriage, either before or after? Therefore, it can be concluded, from all that has been discussed in the case, that only two things remain certain and unshaken: namely, the fact of "non consummation" and Adam's impotence, certain in itself, but doubtful as to its perpetuity; therefore, saving a better judgment, the Consultant says that he does not think that an answer can be given in the usual form. It seems necessary to distinguish

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between law and fact. Without a doubt, a dispensation can be granted by the Most Holy [Father], because "non consummation" is certain, and on this single point alone, the Sacred Congregation sometimes proceeds. However, whether it is expedient to grant a dispensation in a case that is not so certain is not so clear; because the time of cohabitation was brief, the impotence is not of a kind that would absolutely pronounce it incurable, the fear of scandal and sin, given Lucy's age, is not grave, nor are the disagreements.

[*Latin ed. p. 487*]

TO THE ILLUSTRIOUS FATHERS. In Zytomyr, 487 days have passed, unless, with the passage of years, these circumstances have greatly changed. Furthermore, it should not be overlooked whether any document appears in the records, either from the Ordinary or the parish priest, indicating that an attempt at reconciliation was made between the spouses after their separation – nor is there any declaration regarding the suitability of a dispensation from those to whom it would be easily granted, without any careful consideration of the matter by the Sacred Congregation in a case so grave as the sanctity of the marriage sacrament. These are the things, says the Consultor, that I believe should be presented to the Eminent Fathers, and which I humbly submit, from which it seems to follow an answer to the question "Whether consultation with the Holy See is required for a dispensation in this case," namely "Affirmatively," with a prior report required from the Ordinary regarding the suitability of this concession. OBSERVATIONS OF THE DEFENSOR OF THE MARRIAGE BOND *EX OFFICIO*. In the year 1880, on July 2nd, Lucia, of Arcadia, who was over twenty years of age, entered into a marriage bond with Adam Bronislay, who was eighty-four years old. But the conjugal love did not last long: for the wife, endowed with a considerable fortune, refused to entrust the management of her affairs to her husband. The discord that arose between the spouses on this account was exacerbated by the wife's mother, who, having gone to the home of the newlyweds, did everything in her power to dissuade her daughter from fulfilling her marital duties. After five months had passed since the wedding, on December 5th, Lucia bid farewell to her husband; on the 19th of the same month, due to the husband's impotence, the marriage was declared invalid, which he now contends was valid, but imperfectly consummated. The Most Eminent Senate, having been consulted on this matter, wisely responded on September 10, 1887: "Let a new process be initiated and completed, observing the form of the Constitution of Benedict XIV and the instructions of the Sacred Congregation, and in accordance with the observations to be made by the Defensor of the Marriage Bond *ex officio*." Therefore, let us now, Eminent Fathers, proceed to bring this matter to a

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conclusion.

[*Latin ed. p. 488*]

488. In the records of the investigations, certain details deserve closer scrutiny, and their significance should be carefully considered. To begin with the most powerful and virtually irrefutable argument against the alleged act: three midwives attended the birth, among whom were Tecla Mogilnicka and Alexandra Zatuska, who were also present in the initial proceedings concerning this matter. Indeed, the testimony of Tecla and Alexandra has been rendered insignificant in the subsequent discussions of this case, because they did not swear an oath; and even this morning, I must diminish the importance of their accounts. For if they were able to deceive initially, because they did not swear; then they were prepared to perjure themselves rather than expose their own falsehoods. Furthermore, in the aforementioned observations, we noted that the actress's mother, who was performing the duties of a midwife, was engaged in a task that demands the utmost attention and concentration. This same circumstance is lamented in the current proceedings. For the duties of a midwife were performed by Alphonsina Dasrkowska, who is one of the witnesses presented by Lucia herself. Moreover, Alphonsina ostensibly assumed the role of a midwife. When questioned by the judge, "Whether the examination by the midwives was conducted in your presence, individually by each midwife or perhaps simultaneously by all, whether they consulted with each other... whether, besides them, any other person was present," she replied: "To these questions, I cannot answer, because I WAS OCCUPIED WITH DOMESTIC AFFAIRS... I do not know whether other midwives were present, because AT THAT TIME I WAS ENGAGED IN DOMESTIC MATTERS AND WITH CHILDREN." Furthermore, we observed that the midwives who were summoned to examine the actress in the initial investigation were instructed by only one physician. In the new investigation, however, two practitioners of the medical arts instructed the midwives; but they provided an incomplete and inadequate instruction, so that the midwives, adhering to the instruction, reported certain details about the condition of the genital organs, omitting any consideration of other parts of the body. Finally, in the other proceeding, only four witnesses were presented.

[*Latin ed. p. 489*]

LUCEORIEN. ZYTOMIRIEN. Four hundred and eighty-nine had been expelled from the side of the man. Therefore, according to the mind of the Most Eminent and Reverend Fathers, it was necessary to obtain testimony from a seventh person. But the new investigation reveals only one witness from the side of the man. As for the causes for granting a dispensation, since the new investigation provides nothing, it matters not whether you

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delay the matter by many or by few. Therefore, I set a limit, requesting a response to the written doubt – NEGATIVE. Having considered all these things, it was the duty of the Most Eminent Fathers to determine whether it is permissible to consult with the Most Holy Congregation regarding a dispensation from a valid but unconsummated marriage in this case. RESOLUTION. The Holy Congregation, after deliberation, on August 9, 1890, decided to respond: Affirmative.

ANAGNAI, REGARDING THE JURISDICTION AND OFFICES OF CANONICAL LAW.

On September 10, 1890. Session 24, Chapter 1 concerning the reform of marriage.

COMPENDIUM OF THE FACTS.

In the constitutions of the cathedral church of Anagnai, it is established that on the major feasts, if the Bishop abstains from celebrating, he shall be replaced by the Proposit, who holds the unique dignity of the chapter; and if the Proposit is absent or hindered, his place shall be taken by the senior canon. However, contrary to the statutes of the chapter, the custom has prevailed that on the third day of Easter and Pentecost, on the feast of Saint Stephen, and on the second vespers of the feasts of the first class, whenever the Proposit celebrates the first vespers, the senior canon performs the sacred functions, even if the Proposit is present and in no way hindered.

[*Latin ed. p. 490*]

490 ANAGNINA Furthermore, these same regulations stipulate that the Prefect shall receive a double portion in distributions, both ordinary and extraordinary; and, in accordance with the common law, they prescribe that the portion lost by those who are absent shall be increased for those who are present. However, on the contrary, in processions, whenever the Prefect is absent, his double portion is not increased for the others, but is given to the canon who performs the Prefect's duties. This custom is said to have been consistently observed until the year 1877; from which it can be inferred that, from the year 1877 onwards, a consistent and unchanging custom regarding this matter has not been established. In funerals, however, the canon who substitutes for the absent Prefect is not given a double portion of everything, but only a double candle or taper. Finally, when the senior canon, who is senile, is assisted by a coadjutor in accordance with the Bull, the coadjutor "enjoys, possesses, and partakes of all the privileges, liberties, preeminences, honors, favors, and graces with which a coadjutor, by reason of his canonry and prebend, uses, possesses, and enjoys;" the question arises as to whether, in place of the senior canon in the celebration

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of more solemn Masses, and in precedence at funerals and supplications, the vice-dean canon, that is, the one who, by reason of his tenure, is closer to the senior, should succeed, or rather, the dean's coadjutor. Since there was not a single opinion among the canons regarding this matter, they jointly petitioned the Sacred Congregation to provide a solution to the following questions: "I. Whether the senior canon's coadjutor in the cathedral of Anagnina, who enjoys all the privileges, preeminences, and honors pertaining to a coadjutor by virtue of the Bull, is obliged to substitute for the Prefect who is absent or lawfully impeded in major processions, funerals, and solemnities in which the Bishop is not present." "II. Whether the senior canon may refuse the burden of celebrating the conventual Mass on the third day of Easter, Pentecost, and the feast of St. Stephen, and also of celebrating the second Mass."

[*Latin ed. p. 491*]

ANAGNINA 491: "Concerning the privileges of canons of the first class, how often should they be granted, provided the Prefect is present or legitimately hindered? " "III. Does a canon who substitutes for the Prefect who is absent or legitimately hindered in processions and funerals, have the right to receive the same compensation that would be due to the Prefect if he were present at the function? " "IV. Does a canon who, in place of the Prefect who is absent or legitimately hindered, sings the conventual Mass on major feasts, have the right to receive the alms of the sung Mass that would be given by the Prefect? " "V. Does a canon who, in the Vespers and other more solemn functions, besides the conventual Mass, substitutes for the Prefect who is legitimately and habitually hindered, have the right to receive some compensation for his labor and inconvenience? " Regarding these matters, the Bishop, when asked, expressed his opinion as follows: "Concerning 1. Honors are the privileges of dignity, and only the senior canon holds the first place after the dignity, while assistants of any kind always hold the last place, whether in the choir or in functions. " "Concerning 2. How can the senior canon refuse the burden of singing the conventual Mass on the third day of Easter, etc., if, as is stated beforehand, a contrary custom has prevailed? Certainly, I would not dare to impose a new burden on anyone. " "Concerning 3. If the Prefect is legitimately hindered, he should receive the distribution that is due to him in processions and funerals; but if he is not legitimately hindered, then in those functions, it should be divided among all the canons present, due to the right of augmentation, which is established in the chapter. And this is all the more so because not a few of the senior canons assert that no compensation has ever been given to the senior canon who performs the duties of the Prefect, not even up to the year 1877. " "Concerning 4. The senior canon who sings and offers the Mass in place of the Prefect, if it is truly a burden inherent in the dignity, has the right to receive only the alms given by the Prefect

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himself. ”

[*Latin ed. p. 492*]

492 ANAGNINA « Regarding point 5. For the same reason explained in the third section, the senior canon must always and in every case substitute for the Provisor during more solemn Vespers, because he bears the burden and privilege of fulfilling the duties of that office; therefore, he has no right to receive any emolument, of which no mention is made in the chapter constitutions. » *Disputatio Synoptica*. Regarding the first point, where the question of the rights of the senior canon is raised, it has been noted that, by virtue of his office, as a military coadjutor, the very founding Bull itself, in which the same coadjutor is granted – all and each privileges, liberties, precedences, honors, favors, and graces, by which the coadjutor benefits – must be considered. Furthermore, the celebration during the major feasts, whenever the Bishop and Provisor are absent, as well as precedence in processions and funerals, must be included among the precedences, privileges, and honors. Moreover, the precedence and celebration of Mass on more solemn days, besides the honor, also involve a burden and a duty. It is, however, commonly the case that the coadjutor is always substituted for in the burdens and duties, although he is not always substituted for in the honors. On the contrary, from book 1 of the *Caeremoniale Episcoporum*, chapter 26, we have that « if the highest office is lacking... the next one will take its place, whether it be the archpriest or a canon, and so on... Where the orders are not distinct, the two canons immediately seated behind the canon who serves will take its place. » This rule, since it applies to burdens and duties, applies even more strongly in the case of precedence and honors. And therefore, it is commonly accepted and, without dispute, handed down by the learned doctors, that whoever first occupies a stall in the choir, whether it be a dignitary or a canon, will, above all others, obtain the highest positions, precedence, and honor. Passerinus in cap. *Consuet.* n. 3 [Regarding the customs in the 6th book, Pignatelli, consul. 35, n. 2, vol. 4; Benedict XIV, Q. 136, Fer-].

[*Latin ed. p. 493*]

ANAGNINA 493, rarely, Canon 10, n. 21, with numerous resolutions of the Holy See. Indeed, in the matter of the coadjutor of the senior canon, he does not occupy the same or the next coadjutor’s seat, but the last one, which, indeed, belongs to him by reason of possession, as the Bishop notes. Therefore, it would seem incongruous to have this one, who is inferior to the others, surpass the others. Rather, the words of the Bull of institution should be considered; for they are best understood concerning the rights, honors, and prerogatives proper to the senior canon, as he is a canon, that is, those things which belong to him by reason of his canonry, as is clearly stated in the Bull of institution, and not concerning those rights and honors

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which have been acquired by the senior canon through ancient service, which are accidental, and therefore cannot be granted to a coadjutor except with evident contradiction and open injury to all other canons who are older and have served longer. The only exception would be if a coadjutor of dignity were being appointed; for then, "according to the celebrated resolutions of the Holy Roman Church in Patavina, February 14, 1615, and December 3, 1616, and in Neritonen, October 12, 1619, there is this difference between coadjutors of dignities and coadjutors of canons, that coadjutors of dignities, as those seated in the stall of the dignity, must perform the functions pertaining to the dignity they assist; and conversely, coadjutors of canons, as those seated behind all the canons, cannot perform the functions pertaining to assisting the canons, unless in the case in which other canons are lacking." Thus, Benedict XIV, in the cited passage. Regarding the second point of the question, it can be gathered that the constitutions of the cathedral of Anagnina, with the prescribed words, establish that, in the major solemnities, when the Bishop is not celebrating, the Propositur should take his place; and only in the case in which the Propositur is legitimately hindered, should the senior canon take his place. Furthermore, each chapter must stand by its statutes and observe them strictly. Therefore, it is an unusual practice for the senior canon to celebrate in certain major solemnities.

[*Latin ed. p. 494*]

494 At Anagnina, although a Prefect is present and readily available, it would seem to be contrary to the constitutions, and therefore to be condemned. Unless, perhaps, a custom prevails to the contrary, which, if established by long usage, as appears from the topic, can certainly derogate from the statutes of the Church and acquire the force of law. For the matter in question is one in which, according to the common opinion of the Doctors, as stated in Panimol. decis. 1 n. 9 and 19 Rota cor. Othob. decis. 4 n. 34, custom is considered, and in which "custom makes everything and is alone considered." Baldus, in cap. Cum olim n. 1 De consuet. Furthermore, it should be noted that the solemnities in question are those in which the celebration is reserved to the senior canon, even though they are of the first class; however, they are not of the first order, but of the third, as Castaldus observes in prax. Caer. lib. 2 sect. 5 c. 1 n. 2 and following. Therefore, it could reasonably be said that the constitutions, in that part in which they order the Prefect to celebrate in place of the Bishop when the latter is absent in the major solemnities, have not been derogated from. For, according to the wording, it is not a question of major solemnities, but of minor ones. Regarding the third question, in which it is asked whether the portion that is due to the Prefect at funerals and supplications, if he is present, should be attributed to the canon who is taking his place, or not: it should be noted that in the formula of the question proposed by the chapter, the

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question is restricted to the case of the Prefect's absence or legitimate impediment; these words seem to be inappropriately placed, too restrictive, or even misleading. Indeed, someone who is absent or legitimately impeded sometimes has the right to distributions, not only ordinary ones, but also extraordinary ones, as in the case of infirmity. But there is also another case, namely, that of absence, which is indeed legitimate, but in which distributions are lost, as in the case of a vacation of the chapter during the trimester. Finally, there is the case of illegitimate absence, but the chapter seems to be unconcerned about this, and for what reason I do not know. With these clarifications made, it was added that if the question is about the Prefect's absence, which deprives him of his right to di-

[*Latin ed. p. 495*]

ANAGNINA 495: The distribution [of revenues] does not diminish; rather, the portion which belongs to him must, by right, be given to him, so that no question may arise, as the Ordinary affirms. But in the case of absence, whether legitimate or illegitimate, in which the Prefect loses the distributions, the senior canon, in order to claim the vacant portion for himself, can invoke the principle that he who is substituted in his place and honored in his office, must also receive the emoluments joined to that place and honor. But, conversely, the clear disposition of chapter 3 of the Council of Trent, session 22, is opposed, in which it is established that the distributions among the dignities and others who participate in the divine services, should be divided proportionally according to the service rendered, and that those which are lost through the absence of some, should accrue to those who are present. Therefore, in the matters which are lost by the Prefect due to his absence, they should not be given to a single senior, but to all those who, because of the division of that small emolument, have acquired a right according to the decree of Trent. Even more so, because the first place in funerals and supplications implies more honor than a burden to be repaid with a particular emolument. In the fourth place, concerning the Mass, and in the fifth place, concerning Vespers and other functions, the question is asked whether the senior canon, who celebrates in the place of the Prefect, has the right to receive the alms for the Mass, and the payment for Vespers and other sacred functions from the same Prefect. But here, too, the question proposed by the chapter is limited to the case of a Prefect who is absent or legitimately hindered. These terms do not at all touch upon the other case of a Prefect who is illegitimately absent, and even less upon the particular question of the third celebration of Easter and Pentecost, and of the feast of St. Stephen, nor also of the second Vespers, when the Prefect celebrated in the morning, and in which, in addition, the same Prefect may have obtained, by custom, an exemption from the obligation to celebrate. However, since the chapter does not seem to be concerned with these matters, the question need not

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be raised, and therefore the discussion is limited to the single case of a Prefect who is legitimately hindered. And in this matter, in favor of the senior canon, who celebrates for the Prefect, it can be invoked that he should be given a suitable stipend.

[*Latin ed. p. 496*]

496. The ANAGNINA decree establishes the principle that "he who bears the burden, ought also to enjoy the benefit," according to rule 55 of the sixth book of canon law; for "according to nature, the benefits of each should follow him who endures the inconveniences," according to the law of nature. Therefore, when a senior canon substitutes for the Provisor in the celebration of Mass or Vespers, and bears his burden, it seems just that he should also receive the benefits, that is, the alms for the Mass and the payment for Vespers. Even more so, because the Provisor, to whom it is proper to bear these burdens, receives a benefit that is double that of the other canons; and therefore, he who substitutes for him can readily compensate him. But conversely, if we speak of Vespers, "since the senior canon must always and in every case substitute for the Provisor, because he has the burden and the privilege of fulfilling the duties of the office, and therefore, as the Bishops say, he has no right to receive any benefit, of which no mention is made in the capitular constitutions." However, this theory might perhaps be applied to the case of Mass. But in this matter, one cannot but marvel that the Bishop and the chapter have omitted to refer the necessary matters for the resolution of the doubt, namely, whether a special alms is distributed from the Mass for the conventual Mass, according to what Pope Benedict XIV in the constitution *Cum semper oblatas*, and the Sacred Congregation of Rites in several resolutions, as in *Auximana Miss. Coment.* of December 16, 1820, teaches; or rather, whether the burden of celebrating the conventual Mass constitutes the proper duty of each canon, without any special stipend. It would also have been useful to know whether, in that church, what is otherwise prescribed by common law and confirmed by the decree of the Sacred Rites of November 12, 1831, in *Oardellini*, no. 4669, page 20, is observed, namely, that the conventual Mass, whether with the relative alms or otherwise, should also be celebrated on those days in which the Bishop celebrates pontifically. For it is clear that if the conventual Mass is to be celebrated each day, with the relative stipend from the common Mass, then...

[*Latin ed. p. 497*]

ANAGNINA, the senior canon, who performs the solemnities of the Mass in the place of the Prefect, as does any other who substitutes for an absent brother in the Holy Sacrifice, shall receive the established alms, and nothing else can or ought to be presumed. Nor does the Bishop declare anything different in his Decree, where he states: "The senior canon, who

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sings and offers the Mass in the place of the Prefect, if it is truly a burden inherent to the dignity, has the right to receive only the alms to be paid by the Prefect himself." These words are sufficiently obscure, and they do not express a certain opinion. For the Bishop does not dare to assert, nor to impose upon the Prefect the obligation of providing the alms for the conventual Mass, unless it is truly a burden inherent to the dignity. But whether it is truly and in what sense a burden inherent to the dignity, he does not seek to define. With these things noted, the following questions have been proposed:

I. Does the right and obligation of substituting for the Prefect who is absent or hindered pertain to the coadjutor of the senior canon in this case?

II. Can the senior canon decline the obligation of celebrating the conventual Mass on the third day of Easter and Pentecost, on the feast of St. Stephen, and also on the second vespers on those days, in which the Prefect has celebrated the first vespers and Mass in the morning, in this case?

III. Does the canon, who substitutes for the Prefect in processions and funerals, have the right to a double portion that would belong to the same Prefect, if he were present, in this case?

IV. Does the canon, who, legitimately hindering the Prefect, sings the conventual Mass on the more solemn occasions, have the right to receive the alms of the chanted Mass to be paid by the Prefect, in this case?

Acta, Vol. XXIII, page 62.

[*Latin ed. p. 498*]

498. ANAGNINA. Question: Can a canon, who substitutes for a legitimately impeded Rector during Vespers and other more solemn functions, have the right to receive some compensation for his labor in such a case?

RESOLUTION. The Sacred Congregation, after discussing the matter on September 6, 1890, decided to respond as follows: To I: Negative. To II: Negative, considering the premises. To III: In the opinion of the Bishop. To IV: Affirmative, if no specific stipend is assigned for the conventual Mass from the common offerings. To V: Negative.

FROM THE DIVISION OF THE LUCAN ECCLESIASTICAL PROVINCE: In the Archdiocesan territory of Lucania, there exist two parish churches, called Montesacrato and Sextimoriano, which, due to the poverty of the revenues of both, at the request of the family of Nobili, who held the right of patronage over the Church of Montesacrato, were united by Pope Leo X, in virtue of a Bull dated December 17, 1517. The parish priest resided alternately in one church and then the other; but with the passage of time, he fixed his residence in the rectory of Sextimoriano, leaving the house of Montesacrato to a curate, who was dependent on the parish priest in all things. After more than two centuries since these events occurred, the inhabitants of Montesacrato presented a petition to His Holiness,

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requesting that their church be separated from that of Sextimoriano. The cause was presented on December 18, 1863, under the following questions: 1. And how should one respond to the prayers, either for the complete separation or for the establishment of a perpetual Vicar, in this case? And to what extent should one respond affirmatively, either to the first or to the...

COMPENDIUM OF THE MATTER.

[*Latin ed. p. 499*]

LUCANA 499, second part, 2. What sum should be established for the proper maintenance of the church and other expenses for the new pastor? It pleased the Fathers to respond: "Regarding the first." Negatively, regarding the first part, according to the vote of the Archbishop. Regarding the second: Affirmatively, in all respects, according to the vote of the Archbishop. It is fitting to report the Archbishop's vote, which he presented to the Holy Congregation: 1. The division of parishes is opportune, not only because of the distance between the places, but also for the peace of the people of Montesacro. 2. The new pastor should have the title and privileges of a Rector, since the church of Montesacro has always retained the title of Rectory. 3. To the Rector for the time being of Montesacro, nothing other than the right of patronage of the church of Montesacro should be granted; and this to avoid dissensions, which would otherwise be feared. 4. Finally, regarding the revenues, nothing should be changed, and the burdens of the Rectory of Sextimoriano should remain related to Montesacro even in the future, since it was considered that sufficient provision was made both for the maintenance of the church and for the provision of a parish. The report, dated December 13, 1863, was not accepted by the people of Montesacro, who therefore requested the benefit of a new hearing. Regarding this new petition, the Archbishop responded that the difficulties concerning both the election of the Rector and the sum to be assigned to him should be considered; and therefore, it would be more prudent to confirm the resolutions of December 18, 1863. After hearing these things, the Holy Congregation proposed the following doubts: 1. Whether and how should one depart from the decisions in the first doubt? 2. Whether and how should one depart from the decisions in the second doubt? On March 31, 1865, both were confirmed with the following response: "Regarding the first and second, in the decisions." Thirteen years later, or on February 16, 1878, at the request of some inhabitants of Montesacro, the aforementioned decision of the Holy Congregation was ordered to be carried out, prescribing the following: 1. The church of Montesacro, under the title...

[*Latin ed. p. 500*]

500. LUGANA S. Ioannis Baptistae, together with the assigned popu-

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lation, is established as a vicariate, according to the decree of the Holy Congregation. 2. The election of a perpetual vicar shall be referred to the Reverend Pleban for the time being of the church of Sextimoriano. 3. The boundaries of said perpetual vicariate shall be the same as those of the church of Montesacrato, to which they have been subject from ancient times. 4. The duties to be fulfilled by the perpetual vicar and his successors are as follows: namely, to celebrate Mass for the people; to administer the Sacraments; to explain the Holy Gospel; to impart the Holy Catechism to adults and Christian instruction to children; to provide assistance to the dying; to keep the books of births, deaths, and marriages, and to perform all other duties and functions that are customary to their office. The Pleban of Sextimoriano must deliver to the Vicar of Montesacrato, in addition to the house currently occupied by the Curate, the garden adjacent to said house and the vineyard located near the church, as well as sixty measures of grain, together with twelve measures of wine, amounting to 22.40 livres, as compensation for the oil that should be provided to him. These obligations remain in force, along with the additional burdens imposed by the archiepiscopal decree of February 19, 1821, and by another decree of the ecclesiastical deputation of July 27, 1835. The perpetual vicar, according to the aforementioned archiepiscopal decree of February 19, 1821, must provide three priests for the functions of Holy Saturday, as well as Holy Oil; two measures of grain, a lamb, palm branches, and candles; wax, oil for the lamp, wine, and oil for the Masses. With the exception of the burdens described above, which are imposed on the perpetual vicar, the Pleban of Sextimoriano shall fulfill all the other obligations for which he was previously responsible. Subsequently, on November 26, 1879, an agreement was made between the Pleban and the Brotherhood of St. Roch, established in Montesacrato, by virtue of which the Pleban promised to pay sixty livres annually, in order to free himself from all the obligations he had undertaken towards the church of Montesacrato; and the Brotherhood, in turn, promised to fulfill all the needs and obligations of said church.

[*Latin ed. p. 501*]

LUGANA 501. Since the aforementioned agreement could be rescinded after five years, and five years having elapsed, the Brotherhood bid farewell to the agreement and informed the Rector of Sextimoriano. Despite these circumstances, when the Rector presumed to pay annual fees of 60, instead of the stipulated amounts of 1 7 1, 7 3, contrary to the decree of 1821, the Vicar of Montesacro appealed to the Sacred Congregation, complaining about the Rector's conduct, and simultaneously requesting that, in order to prevent discord and scandal, to promote the dignity of the church of Montesacro, and to foster peace and harmony among the faithful of both churches, a complete separation be decreed, and that a portion of the benefits be assigned to each parish, which "belonged to each before the union." He

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was certain of obtaining this, because it was established by the Bull of Leo X that the rectory of Sextimoriano did not possess the right of patronage, but that the church of Montesacro had been united at the request of the family of Nobili, who, as mentioned above, enjoys the right of patronage over this church. Having received the petition, the Sacred Congregation transmitted it to the Archbishop, instructing him to hear those with an interest and to express his opinion. The Archbishop, in dutiful obedience, and following the instructions of the Sacred Congregation, responded that he had not been able to enforce, by an executive decree, the sum that the Rector of the church of Sextimoriano, which is part of Montesacro, was required to pay, because he had not received any mandate to do so from the Sacred Congregation; that disputes had arisen between the Rector and the Vicar after the five years from the agreement between the Rector and the Brotherhood had elapsed, and that these disputes could not be resolved; that the separation requested by the Vicar would indeed be a useful thing, but difficult to implement due to the authority that civil power exercises over ecclesiastical property. After hearing the information from the Archbishop, and after hearing the Rector's arguments, who maintained that the prayers and reasons presented by the Vicar for the separation were devoid of truth and should not be given any consideration, the Sacred Congregation again instructed the Archbishop to, after a thorough examination...

[*Latin ed. p. 502*]

§02 Concerning the annual sums for the maintenance and preservation of the church of Montesacro, along with its sacristy, bell tower, and sacred vessels, he would ensure that the necessary funds were provided and would specify the sum to be paid by the parish priest for the proper upkeep of the church of Montesacro. If the required sum could not be obtained, he would transmit the documents from both parties to the Holy Congregation. After efforts to reconcile the parties had failed, and in accordance with the mandates of the Holy Congregation, the Archbishop sent the documents of the disputing parties, and also reported that the annual expenses for the church of Montesacro amounted to the sum of 238 *lire*. These expenses were partially covered by 156 *lire* assigned to the parish priest of Montesacro by the Ecclesiastical Delegation; partially by 60 *lire* to be paid by the parish priest of Sextomiano, in accordance with the agreement with the Brotherhood of Saint Roch, established in the year 1879; and finally, by contributions that the Brotherhood of Saint Roch itself had been obligated to provide since the year 1753, to contribute to the expenses required for the maintenance of the church and the repair of its sacred furnishings. Furthermore, he reported concerning the appropriate stipends for each church, noting that the stipend of the parish priest of Sextomiano was less than that of the parish priest of Montesacro; the former receiving 450 *lire* annually, while the latter received 558 *lire* annually. Upon receiving this

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information, the wise judgment of the Most Reverend Fathers was sought, and the following questions were proposed for consideration.

1. Should we adhere to, or depart from, the decisions of December 18, 1863, and March 31, 1865, concerning the separation of the parish of Montesacro from that of Sextomiano in this case? And to the extent that, with regard to the first part, the answer is affirmative; with regard to the second part, the answer is negative.

2. What sum, if any, should be paid by the parish priest of Sextomiano, in favor of the church of Montesacro, in this case?

RESOLUTION.

After the above has been explained and brought to light, the Holy Congregation of Bishops and Regulars, on March 22, 1889, gave the following prudent response: [The text continues, but the provided excerpt ends here.]

[*Latin ed. p. 503*]

LUCANA 503: The matter at hand is that the Archbishop should transmit the status of the revenues and burdens of both churches, along with a plan regarding the manner in which the requested division can be effectively carried out. To facilitate the processing of the aforementioned document, the Archbishop sent a report detailing the current state of both the active and passive aspects of the Church of Sextomoriano, including its revenues and burdens pertaining to the church building, as well as a report of the contributions that had been made with the favor of the parish of Montesacrato, as evidenced by the declarations made during the most recent Visitation of 1886. Furthermore, it was noted that, at the request of the parish priest of Montesacrato, the sum of 85 livres had been added to the burdens, intended for the celebration of Masses for the people, as well as 50 livres for the feast of the titular saint, as had been noted by the parish priest of Sextomoriano. In addition to this, it is observed that an agreement cannot be reached, because, on the one hand, the parish priest of Montesacrato demands that the revenues be restored to both churches, which each church previously received, or, if that is not possible, that the established sum for the benefit of the church building of Montesacrato be no less than that which the church building of Sextomoriano receives, and that the remaining revenues be divided in such a way that the benefice of Montesacrato should receive a revenue that is greater by one-sixth. On the other hand, the parish priest of Sextomoriano states that he is prepared to provide all the necessary canonical contributions to form the revenue that the parish priest of Montesacrato currently enjoys. Finally, with regard to the plan submitted by him regarding the manner in which the requested division can be brought to fruition, the Archbishop believes that one should not deviate from the opinion issued by the Holy Congregation on December 18, 1863, concerning this matter, both because of the reasons presented

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by the Archbishop at that time, and also because it would be feared that the patrons might presume to interfere. Therefore, the same sum should be allocated to both the benefice and the church building of Montesacrato, which is the amount that has been paid up to now by the parish priest of Sextomoriano. However, it is stipulated that these revenues should be assigned from those that exist in the town of Montesacrato.

[*Latin ed. p. 504*]

The situation was as follows: a petition, submitted before the year 1886, requesting that a new parish be examined by the Curia, had been denied to the archiepiscopal see of Montesacro. The books pertaining to the parish of San Sextimoriano, transmitted to the Sacred Congregation of Holy Orders, contained complaints from the parish priest, alleging that the Visitation was not conducted truthfully. These documents, numbered 79 and 452.95, refer to the state of affairs, the prayers, and the amounts of revenue. The Sacred Congregation, unable to ascertain the exact amount of revenue without further examination, wrote to San Sextimoriano, requesting that the matter be examined. The Archbishop, after reading the documents, stated that, according to new investigations, the revenue of San Sextimoriano, which had previously increased due to expenses incurred by the parish of Montesacro, was now different. After all the proper procedures were followed, the Visitation of San Sextimoriano, which had taken place on January 7, 1890, and which concerned matters pertaining to the past seven years, were examined in accordance with the decrees of the Congregation, and a copy was sent to the Archbishop. The Archbishop, in turn, informed the Congregation of San Sextimoriano, stating that, perhaps, a burden would be imposed on the Archbishop, or on the parish of Montesacro, regarding the funds described above. However, the Sacred Congregation, after a thorough examination on March 7, 1890, responded to the reformed doubt: "Whether and in what manner the Church of Montesacro, together with its territory, should be separated, in order to be erected into a parish? Negative." "Regarding the annual sum which it now receives: Affirmative; and it is to be understood that the Vicar is exempt from the obligation of saying Mass for the people, unless the Archbishop has ordered the parish priest to say two Masses for the people, on any feast day, before the decree of February 16, 1878."

[*Latin ed. p. 505*]

805 DECREE by which certain norms are prescribed concerning the intimate manifestation of the heart and conscience to superiors in monasteries of women or men. As with all human affairs, however honest and holy they may be in themselves, so it is with laws, wisely established, that they can be perverted and abused by men, and thus sometimes fail to achieve the purpose intended by the legislators; indeed, sometimes they even produce

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the opposite effect. And this is most regrettable, especially concerning the laws of many Congregations, Societies, or Institutions, whether of women who profess simple or solemn vows, or of men who are entirely lay in their profession and governance; for in some of their Constitutions, the manifestation of conscience was permitted, so that students might more easily learn the arduous path of perfection from experienced Superiors in matters of doubt; on the contrary, in some of these, an intimate examination of conscience, which is reserved solely for the Sacrament of Penance, has been introduced. Furthermore, in the Constitutions concerning the observance of the Holy Canons, it was prescribed that sacramental Confession should be provided in such communities, with regular and extraordinary confessors; but it has happened that Superiors have come to the point of denying their subjects an extraordinary confessor, even in cases in which they greatly needed one in order to consult their own conscience. Finally, they were given a norm of discretion and prudence, so that they might properly and rightly guide their subjects concerning particular penances and other works of piety; but even this, through abuse, has sometimes extended to the point that they have either permitted their subjects to attend the Holy Sacrifice at will, or have sometimes forbidden it altogether. Hence it has come to pass that...

[*Latin ed. p. 506*]

506 D E C R E T U M: Such arrangements, which had been prudently and wisely established to promote the spiritual progress of the students and to preserve and foster peace and harmony within the Communities, have, it is not uncommon, led to the detriment of souls, to the anxiety of consciences, and, moreover, to the disturbance of external peace, as the numerous appeals and complaints from the subjects, widely transmitted to the Holy See, most clearly demonstrate. Wherefore, the Most Holy Lord Pope Leo XIII, with divine providence, for the sake of the special concern He shows for this most beloved portion of His flock, in an audience held with me, Cardinal Prefect of the Holy Congregation for Bishops and Regular Canons, to whom the affairs and consultations of this matter were entrusted, after all had been diligently and carefully considered on the fourteenth day of December, 1890, He willed, established, and decreed the following. I. His Holiness declares invalid, abrogates, and declares null and void for the future, any and all provisions in the Constitutions, of pious Societies, of Institutes of women, or of simple or solemn vows, as well as of laymen of every kind, even if said Constitutions have received approval from the Apostolic See in any form whatsoever, even that which they call special, namely, in that they respect in any way or under any name the intimate manifestation of the heart and conscience. Therefore, it is seriously enjoined upon the Directors and Directresses of such Institutes, Congregations, and Societies that these provisions be completely removed and

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utterly expunged from their own Constitutions, Directives, and Manuals. Furthermore, all usages and customs pertaining to this matter, even those long-standing, are likewise declared invalid and abolished. II. Moreover, it is expressly prohibited to the aforementioned Superiors and Superiors-General of whatever grade and prominence to attempt, directly or indirectly, to induce the persons subject to them, by command, counsel, fear, threats, or flattery.

[*Latin ed. p. 507*]

DECREE M 507 concerning the procedure to be followed in such cases of manifestation of conscience; and furthermore, it commands subordinates to report to their superiors, and superiors to report to those above them, those who dare to induce them to do so; and if the matter concerns the General Moderator or Moderator, the report must be made to this Holy Congregation. III. However, this in no way prevents subordinates from freely and willingly opening their hearts to their superiors, in order to obtain counsel and guidance from their prudence in matters of doubt and anxiety, for the acquisition of virtues and the progress of perfection. IV. Furthermore, with firm adherence to what is prescribed by the Most Holy Council of Trent in Session 25, Chapter 10, concerning regulations, and what is established by the Most Holy Pope Benedict XIV in the Constitution that begins "Pastoralis curae," it is decreed that superiors must not deny extraordinary confessors to the members whenever, according to their own conscience, they are led to seek them out, nor must these superiors in any way inquire into the reasons for the request, nor show displeasure at it. And so that this provident arrangement may not be rendered ineffective, the Ordinaries are exhorted to designate suitable priests, properly instructed, in the areas of their own dioceses, where communities of women exist, to whom they can easily have recourse for the Sacrament of Penance. V. Concerning the granting or denial of permission to approach the Sacred Sacrament, the same Holiness decrees that such permissions or denials apply only to the ordinary or extraordinary confessor, and that superiors have no authority to intervene in this matter, except in the case where one of their subordinates, after the last Sacramental Confession to the community, has been guilty of scandal, or has committed a grave external fault, until they have again approached the Sacrament of Penance. VI. Let all be warned, therefore, to approach the Sacred Sacrament.

[*Latin ed. p. 508*]

508. It is decreed that they diligently prepare themselves and attend [to the Sacraments] on the days established in their own rules; and whenever the Confessor judges that, because of fervor and spiritual progress, someone should receive [the Sacraments] more frequently, he may permit it to him. However, those who have obtained permission from the Confessor

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to attend [Mass] more frequently, even daily, are obligated to inform their Superior; and if the Superior deems that there are just and serious reasons against such frequent Communions, they are obligated to make this known to the Confessor, to whose judgment they must entirely submit.

VII. Furthermore, the same Holiness commands all and each Superiors General, Provincial, and Local of the aforementioned Institutions, whether of men or women, to observe diligently and accurately the provisions of this Decree, under the penalties that those Superiors who violate the mandates of the Apostolic See incur by this very fact.

VIII. Finally, it is commanded that copies of the present Decree, translated into the vernacular language, be inserted into the Constitutions of the aforementioned pious Institutions, and that at least once a year, at a designated time in each House, whether in the public refectory or in a Chapter specially convened for this purpose, they be read aloud in a clear and understandable voice. And thus, Holiness has decreed and established, contrary to all things, even those of special and individual merit, notwithstanding.

Given at Rome from the Secretariat of the aforementioned Holy Congregation of Bishops and Regulars on the 17th of December, 1890.

I. f

ER. CARDINALIS VERGA

Prefect
ALOISIUS
Bishop of Callinicum
Secretarius.

[*Latin ed. p. 509*]

50V) FROM THE SACRED CONGREGATION, A DECREE CONCERNING THE CELEBRATION OF MASSES IN THE CHURCH, WHERE THE RELICS OF SAINT ALOYSIUS GONZAGA ARE KEPT, OR IN OTHER CHURCHES THROUGHOUT THE OCTAVE OF THE SOLEMNITY, ON THE OCCASION OF THE THREE HUNDREDTH ANNIVERSARY OF HIS PRECIOUS DEATH (1). ROME, JANUARY 18, 1891. In the third centenary year, since the angelic youth Aloysius Gonzaga, having completed a life of innocence, associated with penance, happily migrated in the sight of the Lord to the heavenly kingdom, centennial solemnities are instituted in the city at the Church of Saint Ignatius, where the sacred relics of this virgin youth are kept with the utmost reverence. In order that external solemnities may be added to the ecclesiastical ones, and that piety may be fostered ever more towards this heavenly patron of studious youth, His Eminence and Reverend Monsignor Ludovico Maria Parocchi, the

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Vicar of His Holiness Saint Leo XIII in the Eternal City, humbly requested the same Most Holy Pope, that during the days of the Octave, namely from and including June 19th to and including June 26th, all Masses celebrated in the aforementioned church be celebrated in honor of Saint Aloysius Gonzaga. Furthermore, His Eminence and Reverend Monsignor also humbly implored the same Most Holy Pope, that he would deign to grant this privilege to any church or oratory, so that triduum solemnities or the feast of June 19th with the two following days, or another day or three other days, may be celebrated in honor of this angelic youth, as determined by the Reverend local Ordinary. Moreover, His Holiness, having received the aforementioned petitions presented by the undersigned Cardinal, Prefect of the Sacred Congregation of Rites, has graciously granted the requested privilege concerning the Masses, with the exception that, with regard to the aforementioned Octave, on the feast of the Nativity of Saint John the Baptist, in commemoration of Saint Aloysius, in all Masses for the Church of Saint Ignatius, the proper readings may be used. (1) The letters in which various indulgences were granted for this occasion are found on page 37 of this volume.

[*Latin ed. p. 510*]

S10. Furthermore, according to the Sacred Rites, in ecclesiastical Oratories, either on the twenty-first of June, with the two following days, or on another day, or on three other days after the aforementioned twenty-first of June, the aforementioned solemnities are to be celebrated, with the exception of the First Sunday of Advent and the First Class Masses, as regards the solemn Mass, and the Second Class Masses, as regards the readings; the Conventual or Parochial Mass, corresponding to the office of the day, is never omitted, unless there is a reason to excuse it: the Rubrics are to be observed. Contrary things notwithstanding.

C. CARD. ALOISI - MASELLA, S. R. C., Prefect.

L. f S. VINCENTIUS NUSSI, S. R. C., Secretary.

DECREE concerning the Beatification and Canonization of the Venerable Servant of God, John Martin Moye, priest, of the foreign missions, and founder of the Sisters of Providence.

Whereas, on the fourteenth of the Kalends of September of the year 1886, the Most Holy Pope Leo XIII had already benignly granted that the introduction of the cause of the aforementioned Servant of God, John Martin Moye, might proceed in the Congregation of Sacred Rites without the intervention and vote of the Consultors, although less than ten years had passed since the presentation of the process, duly constructed, concerning his famous sanctity of life, virtues, and miracles, nor had his own writings been yet thoroughly investigated and examined;

Now, the Most Reverend Lord Cardinal Raphael Monaco, Bishop of Os-

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tia and Velletri, promoter of this cause, at the urgent request of the Reverend Father Francis Xavier Cazenave, general procurator of the Seminary of Paris for the foreign missions, and Postulator of this cause, having considered the postulatory letters of several men of ecclesiastical dignity, and having, in the ordinary meetings of the Sacred Congregation of Rites, held at the Vatican, signed on the day indicated, proposed the following question for discussion: "Whether a Commission for the introduction of the cause should be appointed, and for the purpose of what is being considered?"

The Most Reverend Fathers, Prefects of the Sacred Rites, having considered all matters with mature examination, and having heard the Reverend...

[*Latin ed. p. 511*]

From the Sacred Rites, number 511, Most Reverend Augustino Caprara, Promoter of the Faith, having expressed his opinion both verbally and in writing, deemed it necessary to write: "The Commission is to be approved or signed, if it pleases the Most Holy [Father]." December 18, 1890. Having faithfully related all of these matters to the Most Holy Lord, our Pope Leo XIII, His Holiness, having approved the response of the Sacred Congregation, deigned to sign the Commission for the introduction of the cause of the venerable Servant of God, John Martin Moye, aforementioned. January 14, 1891. Cardinal Aloisi-Masella, Prefect of the Sacred Congregation. Very Reverend Vincent Nuss, Secretary of the Sacred Congregation. Decree concerning the Beatification and Canonization of the venerable Servant of God, Julia Billiart, foundress of the congregation of the Sisters of the Blessed Virgin Mary. In the presence of the Reverend Father Raphael Maria Virili, the Ordinary of Urban, having been appointed promoter of the cause of beatification and canonization of the aforementioned venerable Servant of God, Julia Billiart, by myself, the Cardinal, Prefect of the Sacred Congregation of Rites, and having been presented in the ordinary meetings of the aforementioned Sacred Congregation, held at the Vatican on the date indicated, the following question was proposed: Whether the opinion of the Judge, delegated by the Reverend Bishop of Namen, concerning the cult of the aforementioned venerable Servant of God, or concerning the decrees of the late Pope Urban VIII, should be confirmed in this case, and to what effect? And the Reverend Fathers, having been instructed in the proper rites, and having considered all things carefully, after having heard the Reverend Father, Doctor Augustino Caprara, Promoter of the Faith, both verbally and in writing, deemed it necessary to write: "Affirmative, or the opinion is to be confirmed." December 18, 1890. These matters having been subsequently faithfully reported to the Most Holy Lord, our Pope Leo XIII,

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by the undersigned Secretary.

[*Latin ed. p. 512*]

If the following document, issued by the Sacred Congregation of Rites, has been deemed valid and has received confirmation, let it be so declared. January 1, 1891. C. CARDINAL ALOISI-MASELLAS, Prefect. L., S. VINCENTIUS NUSSI, Secretary.

DECREE of Confirmation of the worship rendered from time immemorial to the Servant of God, Sister Justine Francucci Bezzoli, of the Order of Saint Benedict, now blessed.

At the request of the Reverend Father Victor Piazzesi, promoter of the aforementioned cause, and after the Most Eminent and Reverend Cardinal Aloysius Macchi, who, having presented the aforementioned cause in the ordinary sessions of the Sacred Congregation of Rites, convened at the Vatican, proposed the following question for discussion: "Whether the judgment of the judges delegated by the Most Reverend and Reverend Lord Aretino, Bishop, concerning the worship rendered from time immemorial to the aforementioned Servant of God, or concerning the exception to the decrees of His Holiness Urban VIII, Pope, should be confirmed in this case and with effect for what is being considered?"

The Most Eminent and Reverend Fathers, Prefects of the Sacred Rites, after mature deliberation and having heard the Reverend Father D. Augustinus Caprara, promoter of the Holy Faith, judged it fitting to respond: Affirmative, that is, the judgment should be confirmed.

December 18, 1890.

These matters, having been reported to His Holiness, Pope Leo XIII, through the undersigned Secretary, His Holiness deemed the document of the Sacred Congregation to be valid and confirmed it.

January 1, 1891.

C. CARDINAL ALOISI-MASELLAS, Prefect. L., S. VINCENTIUS NUSSI, Secretary.

[*Latin ed. p. 513*]

513 Apostolic Letters from the Most Holy Pope Leo XIII, concerning the rights of the Archbishop of Bari and the privileges of the Prior of the Basilica of Saint Nicholas. Among the most illustrious monuments that the piety of our ancestors has erected in Italy, the sacred Basilica of Bari, founded in honor of Saint Nicholas of Myra, deserves to be esteemed. Saint Nicholas, whose zeal for the defense of the faith was manifested at the Council of Nicaea, and whose other excellent virtues, justly merited the veneration of posterity. - This Basilica has gained renown not only through its artistic adornments and ancient works that testify to the faith, but also, above all, through the relics of the saint himself, which were brought from Asia,

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and which are preserved in this very temple, and which are clear signs of the present grace that the citizens of Bari and all those who approach it with a sincere desire to venerate, constantly experience. As a result, this Basilica is celebrated not only by the citizens and visitors of Bari, but also by a multitude of pilgrims from distant lands, drawn by its devotion and religious significance. - Furthermore, several princes who held dominion over Bari bestowed honors upon it, including Roger of Sicily, who, known for his wisdom and protection against the injustices of men, granted many benefices. In the first place, however, Our Predecessors, the Roman Pontiffs, present at the consecration of the Temple by Urban II, favored it with their support, holding it in immediate regard, a favor which was never interrupted throughout the passing centuries, and they generously rewarded the princes with honors, granting insignia and special indulgences. - However, even these privileges, and the patronage of civil authorities, were not sufficient to exempt the sacred Basilica and its Chapter from the jurisdiction of the ordinary pastor who presides over the Diocese. It is clear that the protection of the Supreme Pontiffs, whether through immediate authority or otherwise, does not extend to the point of exempting a place or a group from the jurisdiction of the Ordinary, unless such exemption has been explicitly and clearly granted, or, as the law states, dispositively conceded. - Indeed, there have been several controversies concerning the exemption of the Basilica of Bari, and judgments have been brought before the Apostolic See; but the sacred Council... (The passage is incomplete).

[*Latin ed. p. 514*]

514 The Letters of the Cardinals, which preside over such judgments in the name of the Supreme Pontiff, have repeatedly pronounced judgments against the defenders of the exemption, and these sentences have been confirmed by the Pontifical authority. – It is not secretly, and indeed presently, contended that what was granted was not a concession that was ever truly made, and that this is considered a crime against the public, a demand made before the Sacred Congregations, as we have said. The same has happened to some, so that not only did the Archbishop of Bari despise the authority, but the supreme, ordinary, and immediate power of the Roman Pontiff was rejected, and for a cause that pertains to ecclesiastical jurisdiction and contains matters of spiritual concern. What has arisen and is still arising from this is so scandalous that it is better not to remember it. It is sufficient to indicate that, in seeking to obtain privileges for that Basilica and its clergy, the duties of due obedience have been gravely violated, and the supreme power of the Roman Pontiff has been exposed to contempt and scorn. Indeed, considering the gravity of the matter, we would consider our office to be lacking if we did not, with all our power, extinguish the flame of this contention, and prevent any opportunity from being given for a similar conflict to be renewed in the future. Therefore, we have judged it necessary

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to define, with our supreme authority, through these Letters, the mutual reasons of rights and duties between the Ordinary of Bari and the Basilica of St. Nicholas, its Grand Prior, Chapter, and clergy. Since there are many things about which all doubt is removed, we recall first that the Sacred Congregation for the interpretation of the decrees of the Council of Trent, which previously resolved questions proposed to it, with our approval or that of our predecessors, established the following: It does not follow that the Basilica of St. Nicholas, or its Grand Prior, Chapter, and clergy, are exempt from the ordinary jurisdiction of the Archbishop of Bari, and therefore the aforementioned Archbishop has the right to carry out a pastoral visitation in the Basilica, its churches, and its dependencies, and that the Grand Prior and the aforementioned men must attend the diocesan synod: – It belongs to the Archbishop, and, in the absence of an Archbishop, to the Vicar Capitular, to have the power to approve confessors, to examine the sacred testimonies of the faithful in the Basilica, and to admit priests who administer the Most Holy Sacrament to the Grand Prior.

[*Latin ed. p. 515*]

LETTERS 51. To the Prior, Canons, and Clergy of the Basilica:

It is not permitted to anyone within that temple, without the permission of the Ordinary, to celebrate the sacraments, to preach, or to announce indulgences, or to grant other spiritual benefits.

The Prior cannot grant dismissal letters to the Clergy of the same Basilica, should they wish to enter another sacred office; rather, they must receive such letters from the Archbishop.

The Prior, Chapter, and Clergy of the Basilica are to participate in the sacred ceremonies and processions; only the Prior may be absent from these, except when the Archbishop's See is vacant.

Regarding the order of precedence, even if the See is vacant, the Chapter of Saint Nicholas must yield precedence to the Chapter of the Cathedral Church.

From the same Cathedral Church, the Chapter of Saint Nicholas, even if the See is vacant, must receive the oil for the sick.

Conversely, it is declared: that the Archbishop may admit as many suitable young men as the Prior requests for service in the Basilica, but not more than thirty; and that those Clergy who have served in the Basilica for three years must, upon the request of the Prior, renew their three years of service in order to be admitted to the order.

Concerning the ordination of the Clergy, it is established that they must present themselves to the Archbishop, and that they must be properly examined by him; however, he may dismiss them, except for a just and canonically proven reason.

Let it be understood that all of these matters are of firm and stable

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validity, since they have been defined, with the cause clearly known, and with Pontifical sanction; nevertheless, so that there may be no true or pretended reason for ambiguity, tergiversation, rejection, or frustration of rightly judged matters, We, by the fullness of Apostolic power, which precedes all actions and is not diminished or restricted by any human authority, confirming the aforementioned deliberations, decree and declare that the Basilica of Saint Nicholas, together with its Prior, Chapter, and Clergy, is in no way exempt from the jurisdiction of the Ordinary of that city, but rather is subject to him; nor does the Prior have any episcopal jurisdiction over the Basilica or its adjacent places, or over any churches united to it, nor is it permitted to him, in any way, to impede the exercise of the Ordinary's jurisdiction in those places.

Furthermore, We decree and declare:

I. That the Prior must exercise moderate control over his Clergy; and from this, he can directly command all things that...

[*Latin ed. p. 516*]

516. The *LITTERAE* pertain to the internal discipline of the Basilica, the order and functions of the clergy, and therefore, within the ambit of the Basilica, it is permissible to inflict equal penalties on those who commit minor offenses, while maintaining, in all other respects, the ordinary, or, as the need arises, the delegated power of the Archbishop, endowed with full authority by the Apostolic See.

II. It is not permitted for the Grand Prior to impose censures or place the Basilica under interdict, unless first permission has been obtained from the Apostolic See.

III. To the Grand Prior, within the ambit of the Basilica, it is permitted to use pontifical insignia, according to the privileges granted by the Supreme Pontiffs, and outside the church, to wear the garments known as the rochet and mantle, but not the mozzetta; it is also permitted for him to wear a cross on his chest, as a symbol of honor; however, it is not permitted for him to go about the streets blessing the people.

IV. The Grand Prior, the Canons, and other beneficiaries are to hold their offices as sacred and perpetual, just as those who possess true and proper ecclesiastical benefices in other churches; nor is it to be understood that within the Basilica any privileges have been granted concerning the nature of the benefices, or that they have been conferred through the intervention of the Roman Pontiff. Therefore, he who would violate justice and inflict a wrong, or who, for a just and canonical reason, rightly recognized by the competent ecclesiastical authority, would disturb the possession of a benefice, or who would transfer a benefice to another, would act much worse.

V. With regard to the administration of temporal goods, we declare that

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the laws of the foundation and endowment are to be observed; and, should the Priorate become vacant, the power is to be transferred to the Treasurer, lest anything be neglected.

Finally, since even the young clerics of the Basilica have turned their attention to our affairs, and for weighty reasons, we wish and decree that the faculty which we granted to the Grand Prior in the year 1832 be suspended, namely, that he be permitted to establish a college in the buildings belonging to the Basilica, in which thirty clerics, devoted to the service of the Basilica, would be instituted under the immediate authority of the Holy See. We wish this faculty to remain suspended for so long, and therefore, if the college is open, it is to be closed, and to remain closed for as long as this suspension remains in effect.

[*Latin ed. p. 517*]

LETTERS 517, provided that the laws, by which that jurisdiction is governed, have been prescribed to Us and approved, and that it has been sufficiently demonstrated to Us that the precepts of the moderator are in accordance with sound doctrine and probity. Once these matters have been established, nothing ambiguous or obscure can arise concerning the ecclesiastical jurisdiction of the Basilica of Saint Nicholas in Bari.

It remains, therefore, that each one should diligently carry out those parts of his office which pertain to him, and especially that those who hold a priestly dignity should strive, with prompt obedience, to praise and serve the offices, to equal the sanctity and amplitude of their ministry.

Whoever should act contrary to what is established in these Letters will commit a grave fault against the due obedience owed to this Holy See; and he would incur a graver penalty if he were to stubbornly resist these prescriptions of Ours, and would openly show contempt for the authority of the Pontiff, and would dare to judge matters concerning the aforementioned Basilica and its clergy. Finally, whoever should contend against the prescriptions and decrees of the Holy See, which pertain to these matters, would require the consent and sanction of another authority.

Indeed, whoever should attempt or assert this would be considered schismatic, or a supporter of schism, and would clearly demonstrate that he professes heretical doctrines.

For we are confident that God will accept our prayers, and will avert this stain of crime from all the faithful, especially from the administrators of their Church, and will not allow new wounds to be inflicted upon the most religious temple, from which remedies for evils are sought, upon the entire Church, which has already received so many wounds from its children, who have become enemies.

Therefore, whatever has been decreed and declared in these Letters, we wish and command to be observed by all to whom it pertains, and that it

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cannot be noted, infringed, or brought into controversy by anyone, under any pretext, even if for a privileged reason; but that it should have its full and complete effect, notwithstanding the foregoing [and, as far as necessary, the regulations of the Apostolic Chancery, other Apostolic regulations, even those issued in general and provincial councils; constitutions, and also any statutes, customs, and prescriptions, confirmed by Apostolic authority or strengthened by any other means; to all of which, as if they were inserted verbatim in these Letters, we expressly derogate and intend to derogate, and to all others acting to the contrary].

Given at Rome, at Saint Peter's, in the year of the Incarnation of the Lord—

[*Latin ed. p. 518*]

LETTERS of the year One Thousand Eight Hundred and Ninety, on the Sixth of November, in the thirteenth year of Our Pontificate.

FROM: CARD. BIANCHI, PRO-PREFET.

M. CARD. LEDOCHOWSKI, VISA DE CURIA I.

DE L'AQUILA, and the VICEROYS.

To the Most Reverend D. LEONIS XIII, concerning the Ordinaries of the Austrian Empire; who are exhorted to hold certain congresses among themselves each year; from which effective agreement in feeling and action may arise; and to these congresses, certain matters are indicated which should be especially addressed.

In the very beginning of Our supreme pontificate, which, by the providence of God, We have begun, having considered the entire Catholic world, We have indeed rejoiced to see so many and so excellent things of every kind, whether in studies or in works, accomplished by the sacred pastors, and by both the clergy and the faithful people; but it has not been without a great sorrow to see the enemies of the Church, joined in a wicked conspiracy, striving and attempting all things to destroy that admirable edifice which God Himself has raised for the protection of the human race, and, if possible, to tear it apart.

For indeed, the battle rages far and wide within the Church of Christ, and although it is carried on with various trials, arts, and weapons in different places, it has this one and the same objective: to erase all traces of religion from families, schools, and laws, to strip the Church itself of its faculties and its distinctive character, by which it excels, and to infuse a most pernicious pest of errors into all the veins of domestic and civil society.

The adversaries have shown no restraint, but have given themselves over to boundless license; they have invaded the rights, the liberty, the dignity

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of the Church, of the Bishops, and of all the orders of the clergy, and have attacked the supreme authority and the primacy of the Roman Pontiff. There exist Catholic nations which have suffered great injuries, and in which much evil has flowed and continues to flow.

[*Latin ed. p. 519*]

LETTER 519: It is to be lamented how widely the perversity of opinions, the wickedness of companions, and the spirit of sedition spread, and how daily they threaten the public good and the welfare of states, increasing in magnitude. And indeed, nothing else could be expected: for when, through weakness, the most steadfast defense of the state, which is religion, is undermined, and when that which alone can truly restrain men, both by rightly instructing and salutarily correcting, is constantly weakened and corrupted, the very foundations of the state are shaken. We, therefore, leaving no opportunity unseized, have clearly warned those who hold authority and those who are subject to authority, in weighty letters, urging the former to carefully consider the connections between religion and the state, and exhorting the latter to diligently uphold the teachings of the Holy Church and to make amends. Moreover, our appeal was particularly addressed to our venerable brothers, the Bishops, whom the Holy Spirit has appointed as rulers of the Church of God, and who, through their abundant grace, shine forth: for they, as if watching over all the regions of the earth, are able to discern, through experience, what remedies are needed for each people, and what dangers must be avoided. Surely, they will be the best helpers to us, and we urge them with all our might, for the salvation of the Catholic peoples. We are greatly indebted to God for the fact that our appeal has received such a wonderful and unanimous response from all the Bishops, in thought and deed: for, as far as they are able, with ingenuity and with heart, with exhortation and with action, they strive with all their might to defend the truth of the Catholic faith, and to bring about the prosperity of the true name, by restoring the bonds of human society, by recalling men to the virtues that are in harmony with faith, and by alleviating the greatest miseries. We have observed with great admiration the noble pastoral efforts of the Bishops of Austria, and we feel it is fitting to offer you our due praise in this place: for we have learned how diligently and persistently you strive in your labors to uproot the evils that afflict the German people, and to foster the seeds of Christian life. Moreover, we are pleased to acknowledge that a letter has been sent to you, joined with us, to the faithful of your dioceses, which was a clear argument to us of how closely united are your intentions in matters concerning the Catholic faith. But in order that this concord may be more firmly established and may endure in the future, and that your studies and efforts may

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be directed towards a single, certain goal, it seems to us most fitting that...

[*Latin ed. p. 520*]

520. LETTERS: If certain meetings are held annually among the Bishops themselves, this will promote effective deliberation and concord. This practice, which we desire, has already been introduced in some regions and has yielded truly pleasing results: indeed, it has opened up a wider range of counsel for the Bishops, strengthened their resolve, and kindled a zeal for religion, and has also led to many consultations that have been of great benefit to the Catholic cause in many ways. Furthermore, the union and agreement of so many sacred persons not only enhance their own dignity in the eyes of their brethren, but also serve as an example and an invitation to lay people and to other nations, so that they too may deliberate with harmonious minds, and may undertake the defense of religion, which requires no less vigilance from both the ecclesiastical and civil orders. Moreover, the Bishops, both those who have preceded us and those who are present, have certainly instilled much novelty and zeal in Catholics, urging them to convene and celebrate similar gatherings in similar provinces or in other places; and this is done prudently. For, just as impious men, bold and powerful in number, gather together and conspire to deprive us of that most excellent gift, the gift of faith, and of all the good that follows from it, so too it is most necessary that Catholics, under the guidance of the Bishops, should unite their efforts and resources to resist them: for in such gatherings, they will be able to profess their name more freely and powerfully, and to repel hostile attacks. However, there are also matters of great importance that require deliberation by the Bishops. First and foremost, we must strive to ensure that the Christian family is bound together in ever closer ties with the hierarchical order; so that, in every way, the faithful may adhere to their Bishops with all their will and obedience, and that they may retain and demonstrate, with alacrity and without timidity, the true faith, devotion, and filial piety that are due to the Bishop of the universal Church. Furthermore, since it is the duty of the Roman Pontiff to be fully and perfectly sovereign, and since this office pertains to all Catholics, wherever they may be, and not to any particular nation, the Bishops, after having considered the matter and expressed their opinions, must ensure that the zeal of the faithful is aroused in this most just cause, and that they may strive to bring it to a happy conclusion. In the same place, it will be convenient for the Bishops to...

[*Latin ed. p. 521*]

LETTER 521: It is permissible to communicate matters of importance to the churches, if such matters arise in their affairs; it is also permissible, if there is a need or opportunity, to disseminate common letters and decrees.

Furthermore, the care of instructing and cultivating the clergy, which is

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of the greatest importance and concern to the Bishop, shall have its place in these deliberations; just as the discipline and instruction of the clergy in sacred matters, according to the Tridentine norms, must be diligently attended to, and in addition to the essential teachings, incentives must be added to foster in them piety and virtuous conduct, so that they may flourish appropriately with the times. Moreover, provisions must be made for all matters that may bring greater spiritual benefit to souls.

As for the faithful, who are so often beset by dangers and temptations, there are many different kinds of assistance that can be of great use to them: sermons and catecheses on divine matters, suited to the people, ages, and places; pious lay sodalities, which the Church approves and commends; the inviolable observance of feasts and religious practices; and also institutions or works that provide safeguards against vice and corruption, especially for the young, and that promote the salutary practice of the sacraments; finally, books, periodicals, and similar publications, which defend the faith and promote good morals and discipline.

It is therefore of great importance to urge the Bishops, and we insist with heartfelt zeal and frequent reminders, that Catholics proceed with prudence and order in writing and publishing, and that they strive for the advancement of the common good. Such writings, whether published daily or on certain days, are of great benefit to both the spiritual and civil realms, either because they directly protect and promote good, or because they refute the arguments of adversaries who seek to undermine them, or because they restrain impure influences.

However, in the Austrian Empire, as in other places where periodicals serve a large portion of the people and, due to the abundance of information, can more easily spread and influence, it is absolutely necessary to oppose writings with writings, so that their efforts may be thwarted, their deceptions exposed, their poisonous errors prevented, and just actions and virtues encouraged. Therefore, it is fitting and beneficial that each region have its own periodicals, like sentinels and watchfires, so that nothing is done contrary to the judgment of the Bishop, but rather that all efforts are guided by his wisdom and will.

[*Latin ed. p. 522*]

Furthermore, let the clergy favorably receive and impart to their flock the teachings concerning this matter, so that all those who are Catholics may, with gratitude and with all their ability, offer assistance.

Another very important cause, which I understand from the letters you have commonly sent to the faithful under your care, deserves the solicitude and support of the bishops, namely, the assistance to artisans and workers who are most in need, both through honest labor and for the alleviation of their suffering; and this cause, which is agitated with great fervor these days and is called "social," demands ever greater attention in proportion

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to the difficulties involved. Therefore, it is most fitting that, as long as it is within their power, if the bishops have considered these matters and have seen how the evangelical precepts of justice and charity should influence all classes of citizens, and if, by authority and action, they have come to the aid of the intimate condition of the workers, they will merit great things for religion and for the common good. These matters, therefore, should be brought to a more serious deliberation through the annual meetings of the bishops, which it pleases us to encourage. However, it is most persuasive to us that all the bishops in Austria, with our wishes, which are moved by the sacred zeal for religion and the benevolent spirit towards the Catholic people, will with the utmost willingness and alacrity strive to achieve this. In the meantime, as a pledge of heavenly blessings and as a testimony of our paternal benevolence to you all, our beloved sons and venerable brothers, and to all the people of Austria, we impart the Apostolic Blessing in the Lord with all our heart. Given in Rome, at St. Peter's, on the third day of March, in the fourteenth year of Our Pontificate. LEO XIII.

MOTE - PROPRIO: Of the Most Holy Father Leo XIII; concerning the restoration and expansion of the Vatican astronomical observatory. So that the mystical Bride of Christ, which is the Church, would not be subjected to contempt and envy, nor be attacked by the slanders of the vulgar, and so that, by means of false arguments and violence, the friend of darkness, the ally of obscurity, might compel her, it is necessary...

[*Latin ed. p. 523*]

BY A PAPAL ACT 52: Concerning ignorance, the sciences, and the intense progress thereof. But the things which, from the very beginnings of the Church, were cultivated and taught to men, sufficiently refute and condemn the arrogance, falsehood, and impudence [of those who deny the Church's role in these areas]. For, besides the knowledge of divine things, in which truth was the sole teacher, the Church also excelled in philosophy, which establishes the principles and foundations of all sciences, and which teaches the method for discovering truth, and for reasoning correctly and subtly, or which explains the nature of things and the faculties of the soul, or which investigates human morals and customs; thus, through the Church's teachings, these subjects were developed and illuminated, so that it is difficult to add anything new worthy of being remembered, and dangerous to depart from them. Furthermore, the Church deserves great praise for having perfected and expanded civil law, so that no oblivion will erase what it has contributed to the doctrines, examples, and institutions that are necessary for the proper conduct of affairs, in which the writers and scholars of civil and social matters are concerned.

Meanwhile, the Church has not neglected those disciplines that are concerned with the exploration of nature and its powers. For it founded schools and established museums, so that the youth might learn these

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things more thoroughly, and it had among its sons and administrators those who cultivated these subjects, whom, with its help and honor, it encouraged to devote themselves more diligently to their studies.

Among these sciences, astronomy holds a prominent place, because its investigations are directed to discovering those things which, above all other things, declare the glory of God; and the most wise men of all times were wonderfully delighted by it, and were especially pleased by the knowledge that was imparted to them by divine inspiration, namely, "the revolutions of the year, and the dispositions of the stars" (Wisdom 7:19).

Furthermore, an encouragement to the growth of this science and to the cultivation of its practitioners was also provided by the Church's pastors, who established certain days on which the most important and most solemn mysteries of Christ are celebrated. This was done so that the Fathers of the Council of Trent, who had noted that the arrangement of the days of the year, which had been amended by Julius Caesar, was not sufficiently convenient, earnestly requested the Roman Pontiff to, with the help of learned men, devise a new and more perfect arrangement of the days of the year.

How great was the diligence, constancy, and generosity of our predecessor, Gregory XIII, in this undertaking, is sufficiently evident from history and monuments. Indeed, he ordered that a suitable part of the Vatican buildings be used to erect a high tower, which he adorned with instruments that would serve to measure time.

[*Latin ed. p. 524*]

S24 BY A PAPAL BULL, that age was the most flourishing and accurate, and it housed a gathering of scholars whom the Pope had appointed to restore the calendar. There remain, even now, illustrious vestiges of that era of great beneficence, such as the tower constructed by Ignatius Danti of Perugia, with its marble table and circular sundial, the signs of which, struck by rays of the sun at different heights, demonstrate the need for correcting the old method of reckoning time and the completed restoration of the natural order of things. — This tower, a noble monument to a Pope distinguished for his knowledge of sciences and letters, was restored to its former purpose of celestial observation after a long interruption, under the auspices of Pope Pius VI, at the close of the preceding century. Then, under the care and diligence of Philip Gili, a learned Urban prefect, and others, further explorations were undertaken, concerning magnetism, atmospheric phenomena, and the life of plants. After the death of that learned and industrious man, in the twentieth year of this century, this temple of astronomical science was neglected and deserted; but shortly thereafter, after the death of Pope Pius VII, Pope Leo XII, with great zeal, initiated a vast undertaking encompassing the advancement and embellishment of all sciences, namely, the restoration of the study of sciences throughout

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the Papal States. He happily accomplished this, inspired by his immortal predecessor, by issuing Apostolic Letters beginning with the words: "Quod divina sapientia." Therein, he established certain provisions concerning astronomical instruments, the diligent performance of observations, the writing of ephemerides, which would report on discoveries, and the study to be undertaken, so that those things detected from afar might become known to us. It seems that the Vatican tower was abandoned because, at that time, the expertise required for such matters was greater than that which the nearby buildings could offer, and this tower, with its lofty dome which crowns the Vatican temple, was considered to be the best location for observing the heavens from other places. Hence, the most powerful telescopes were placed there. After true places, along with the rest of the city, became alien to us, on the occasion of our fifty-first anniversary of ordination, along with other duties, instruments were presented to us, skillfully made, which are useful to those who cultivate the physical sciences of the heavens, the air, and the earth; but no one of the most learned men in the physical sciences considered that they could be assigned a more suitable location than that which appeared to us to be in the Vatican tower, as had been prepared by Gregory XIII. When this opinion was approved by us;

[*Latin ed. p. 525*]

BY A PAPAL ACT 525, the very nature of the building, its ancient glory, and its collected furnishings, not unlike the wisdom and teachings of outstanding men, prompted Us to order that it be restored, and that all things be adorned and equipped, so that it might be useful not only for astronomical studies, but also for investigations of the physical world, and for observing the phenomena that occur in the region of Mont-Ventoux. Furthermore, it seemed that the breadth of view was lacking in order to explore the stars and their movements as widely as possible; this was conveniently remedied by the proximity of the ancient Leonian tower, of noble and solid construction, whose highest turret, rising at the very summit of the Vatican hill, offers the greatest opportunities for the most complete observation of the stars, and for absolute precision in all measurements. Therefore, we added this auxiliary to the Gregorian observatory, and we ordered that a large optical instrument, which they call an equatorial, be installed there, designed to receive photographic images of the stars. - To accomplish all these things, we selected knowledgeable and astute men, and we appointed as their leader a most learned man in the sciences of astronomy and physics, Father Francis Denza, of the Regular Clerics of St. Paul, now called the Barnabites. Relying on their industry, we gladly approved the Vatican observatory's association with other most distinguished institutions dedicated to the advancement of astronomy, whose purpose is to produce photographic tables that accurately depict the entire sky, as it appears, studded with numerous stars. - Since We desire that the work undertaken by Us in restor-

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ing this observatory be not completed quickly, but rather be a permanent endeavor, We enacted a law that prescribes the rules that must be observed in all matters and administrations there. Furthermore, We established a council of most distinguished men, in which the overall management of the entire undertaking rests, and to whom We entrust the task of testing and determining the order in which things are to be carried out. - Now, this law and this council, together with all other matters and actions that have been carried out up to now concerning the Vatican observatory, by Our order or consent, We solemnly confirm by these letters, and We desire that they be maintained in the same order as other pontifical institutions founded for the advancement of the sciences. Indeed, in order to further strengthen the stability of this undertaking, We also allocate funds and resources, the income from which will be sufficient to cover the expenses necessary for its proper maintenance and preservation. However, more than human support, We rely on...

[*Latin ed. p. 526*]

S26 By this Motu Proprio, we are confident that Tocco will flourish, favored by the omnipotent God; for in approaching this matter, we intend not only to promote the noble study of science, which elevates the minds of mortals above all other human disciplines to the contemplation of heavenly things, but above all, we intend, as we have constantly declared from the very beginning of Our Pontificate, whenever the opportunity has presented itself, through words, writings, and actions, to ensure that all understand that the Church and its Pastors, as we said at the outset, do not separate solid knowledge of divine and human matters, but embrace and foster them, and diligently promote them with all their strength. Therefore, all that We have established and declared in these Letters shall remain valid and firm, and We will that it endure for posterity, and We decree that it shall be considered null and void if anything should happen to it, notwithstanding any opposition whatsoever. Given in Rome, at St. Peter's, on the fourteenth day of March, in the fourteenth year of Our Pontificate. LEO XIII, Pope.

EPIS TLE from His Holiness Pope Leo XLII to the Count de Ballestre, Baron Heermann, and Count de Preysing; concerning the death of the illustrious L. Windhorst, whose example is urged to be followed in the study of the homeland and the faith.

Beloved Sons, greetings and the Apostolic blessing.

The deep sorrow that you felt upon the death of the distinguished man, Ludwig Windhorst, was not unknown to Us, but it was made even more clear to Us by the telegraphic communication that you sent Us, through Our beloved Cardinal, administrator of public affairs, in the name of your community and your colleagues, Catholics. Indeed, We understand that you are deeply grieved by the unexpected death of that man, whose reli-

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gion, integrity, prudence, and other virtues were outstanding among you, and that you, who followed his example in the most important duties of office, were not only colleagues in labor and counsel, but also sharers in his praise. Relying on your consent and support, the greatest good of the Christian cause, the public good, and the common good –

[*Latin ed. p. 527*]

To you, who so zealously defend the interests of the Church, and who, having once undertaken the cause of justice, pursued it with great fortitude until you saw that you had attained what you steadfastly intended. You have deservedly held the position of principal among your peers, never yielding to the power of adversaries or the fluctuations of popular opinion, but so loving the Fatherland and demonstrating such due obedience to the Supreme Head, that you have never separated these duties from the service of religion, and so you have, with the weight of reason and the strength of eloquence, repelled those who held opposing views, so that it was easily recognized that you were driven by a love of truth, and not by any desire for personal gain or honor.

Indeed, we have recognized these merits of yours, as was fitting; and we have testified to this on other occasions, and this very year, when, upon the return of the anniversary of Our coronation, we wished to increase the honor bestowed upon you, by adorning you with the insignia of the highest rank among the Knights of the Order of Saint Gregory the Great. Although you were not able to enjoy this testimony of Our love and esteem, be assured that We have prepared for you a reward from on high, which will adorn you before God with greater and more lasting glory, a glory that is more brilliant and blessed than any that men can seek.

Meanwhile, you, our beloved sons, remembering the virtues and the example of such a leader, firmly follow in his footsteps, maintain the close concord among yourselves, which he, who preceded you in this assembly, so diligently preserved, and be assured that, just as he always held it in his heart, the prosperity and glory of the common Fatherland will be all the more evident to you, the more faithfully you are obedient to God and to the Church and to your Motherland.

May the merciful God bless you and your associates, and may the Apostolic Benediction, which We impart to you with all our love, be a sign of His favor to you all.

Given at Rome, at Saint Peter's, on the nineteenth day of March, in the year 1891, in the fourteenth year of Our Pontificate.

LEO XIII.

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[*Latin ed. p. 528*]

528 FROM THE HOLY CONGREGATION OF THE COUNCIL OF TRENT. ON MARRIAGE. Dated September 1, 1890. On November 20, 1880, in Paris, in the parish church of Saint Augustine, according to the Catholic rite, in the manner of Trent, Mr. Aloysius Delarue and Mrs. Susanna Pauchet were married. They had no children. Six months later, the husband obtained a divorce decree, due to the wife abandoning the conjugal home. However, when the case was being heard in the civil court, it happened that the woman presented evidence of her physical integrity. This matter was a source of astonishment to all, and especially to the husband, who believed that he had fully fulfilled his marital duties. Although the court rendered a judgment in favor of the husband, without taking into account the evidence presented by the woman regarding her integrity; nevertheless, at the end of the year 1888, the husband appealed to the ecclesiastical tribunal, requesting a dispensation regarding the valid but unconsummated marriage. The Holy Congregation approved this request, and granted the Most Reverend Archbishop the authority to conduct a process according to the manner of Pope Benedict, and to transmit all the documents to Rome. This was done. SUMMARY OF THE CASE. SYNOPTIC DISCUSSION. OPINION OF THE THEOLOGIAN. "Most grave, most wise judges," he said, "is the case that is presented to your supreme judgment today. It concerns the physical proof of the integrity of a woman, which her husband believed he knew, which the civil court rejected, and which, finally, the ecclesiastical judge was unable to compel to be confirmed by a new examination. Therefore, if I were to speak always, and certainly today, not with hesitation, but with fear: on the one hand, concerning the sacrament..."

[*Latin ed. p. 529*]

PARISIAN. I deem it necessary to argue concerning the indissolubility [of marriage], but from the other side, such a certainty regarding the contrary appears, that I, not as an advocate for a client, but as a theologian for the truth, am compelled to affirm that the marriage in this case was not consummated, and to contend that there are most valid reasons for a dispensation. And to open my mind from the very beginning of this discourse, I will immediately say that I am deeply convinced that Aloysius Delarue and Susannah Pauchet indeed performed the marital duties and believed that they had achieved consummation, but in vain, and fruitlessly; although the man did not know it, at least the woman did. However, I believe that this consummation was not properly achieved, not perhaps due to some impotence of the man, but rather due to a certain asymmetry of the parts, through an excess in the man and a deficiency in the woman; which I certainly contend proved to be more serious, and more opposed to the marital duties, due to the unusual position of the woman's genital

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opening. If I can demonstrate all of this from the records of the process, you, most wise judges, will certainly not hesitate to declare that the marriage of the spouses Delarue was neither consummated, nor could it truly have been consummated. This, as I have already said, I demonstrate not as an advocate for the client, but as a theologian for the truth, and I will begin by explaining that most evident contradiction which results from the spouses' responses concerning the fulfillment of the marital duties. For the man affirms in the process that he, on several occasions, and from the very first night of marriage, asked the woman if she would consent to fulfill her duty; but he always found her reluctant and unwilling. On the contrary, the woman responds that she certainly would have readily consented, if it had ever been requested by the man. But, if that is the case, why did she not ask him? Clearly, esteemed Fathers, both the man and the woman asked, but, having seen the futile result, both feared being accused of lying. And the woman, knowing herself well, should have feared this immediately; but the man, being good and simple, only feared it after the woman had testified to her integrity. Records, Volume XXIII, page COLXXIII, line 34.

[*Latin ed. p. 530*]

530 PARISIEN". And indeed, concerning the aforementioned spouses, whatever they may say with their words, it can truly be demonstrated through threefold argument, drawn from the proceedings. For, 1 when the woman presented a document of her integrity before the civil tribunal, we know that the man was greatly astonished. But I ask you, to what does this astonishment of the man amount, if not because he certainly knew that he had known his wife on several occasions? And indeed, 2 not in any way, but he believed that he had known her perfectly; for Monsieur Roger said that he thought he had had relations with his wife, and he thought that the relations had been complete. Moreover, 3 in a certain low and confidential conversation held with Monsieur Hurpy, the man declared that he had used his right on several occasions to have children. And it should be noted that those who testify in this manner are the very lawyers, whose counsel the man followed in the proceedings, and the physician, by whom the man was physically examined to ascertain his potency. Therefore, there is absolutely no doubt that Aloysius and Susanna truly had relations. And if they affirm otherwise, they do not deserve to be believed. What then is the law? You know well, most wise judges, that in a legal case, the matter to be discussed must be entirely distinguished from the cause of the matter: for it is one thing, if we may speak of the case, to inquire into the fact of consummation, and another to inquire into the cause of consummation not having taken place. And indeed, if spouses are not to be heard when they speak of the cause, then all faith must be given to them when they testify about the fact. For in establishing the facts, when no one is obliged to betray himself, it is not surprising

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if spouses conceal the truth, or offer a falsehood. But in establishing the fact, since this is generally done for the sake of conscience, lying cannot be presumed, unless through extreme injustice. Indeed, it seems absurd if spouses, using a certain mental reservation, were to say, for example, that they did not have relations, when they certainly know that they did not have relations. Hence, concerning the fact itself, it must be inquired, esteemed Fathers, whether Aloysius and Susanna had relations in such a way that their marriage could be considered truly consummated. I have already said that the negative answer should be chosen, but...

[*Latin ed. p. 531*]

PARISIAN. 531, at the beginning, and I shall now adopt this argument to demonstrate that the spouses could not have truly consummated their marriage. Indeed, that they did not truly and, in effect, efficaciously unite, all the acts of the process proclaim. We have 1 part of the oath, and especially the oath of the man, who, being a virtuous man, and recognized as such by the witnesses, and commended by the Most Reverend Archbishop, deserves all faith, indeed, all certainty; 2 we have the testimonies of witnesses, from which it results that the woman either did not want to have children, or that, from the very first night of marriage, she showed reluctance to her husband, or that she received her husband in such a way that either the act was prevented from reaching perfection, or that it could not have a perfect completion. And here, I implore you, most wise judges, to note that everything asserted by the witnesses here was explicitly stated to exclude consummation. Thus, as I present one or the other testimony, Mr. Lafosse stated in explicit words: "I must add, regarding the lack of consummation, that Madame Delarue, it is almost publicly known, did not want to have children." Likewise, Mr. Roger asserted that Madame Delarue may have appeared to yield to the desires of her husband, but he certainly asserted this to exclude the true consummation, because he had heard from the expert doctor, Mr. Hurpuy, that Susannah's genitals were not arranged as in other women, and that this was truly and properly with respect to potency. Therefore, from the acts of the process, it is certain that the marriage of Aloysius and Susannah was not truly consummated, although the spouses may have appeared to unite. I confess, Most Reverend Fathers, that all of this, although serious, does not seem sufficient to the purpose. But what if I were to prove that Aloysius and Susannah could not have truly united at the same time? And yet, from the process, this is certain and has been explored. Briefly, I will say what would be tedious to hear at length. A true marital union is impossible where the genitals of the spouses are given in opposite and opposing proportions. But this is what happened in our case: therefore, the marriage of Aloysius and Susannah

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was not truly...

[*Latin ed. p. 532*]

532 PARIS. He was unable to consummate the marriage. And indeed, after a medical examination conducted by the Doctors Hurpuy, Brouardel, and Tarnier, it is established that Aloysius's virile member was endowed with such amplitude that, in a state of ordinary erection, it should surpass all others. On the contrary, according to an examination by the Doctors Brouardel and Tarnier, the female's genital orifice proved to be so narrow that it would not admit the tip of even the smallest finger, and it lacks the power to dilate so that not even the slightest pressure of the smallest finger could be introduced without causing tearing. Therefore, how, and by what means, could such a union have truly and actually taken place? But someone might perhaps say, "How, then, and by what means, could the husband have believed that he was perfectly united with his wife, when the possibility of a true union is not admitted?" Should we not think that the theologian's argument proves nothing, when it strives too much to prove? Not I, but let the expert physician, Doctor Hurpuy, answer for me, who, having been appropriately consulted by the ecclesiastical judge of Paris, openly declared that it is not surprising that, given the asymmetry of the genital organs in opposite directions, the spouses might believe that they are perfectly united, when in reality they are not. It is necessary to report his words verbatim: "My opinion is that, given the disproportion in the opposite direction of the sexual organs of the two spouses, they may have, for a long time and in good faith, believed that they were regularly fulfilling the generative functions, without actually fulfilling them." And since we have called upon Doctor Hurpuy, let us also present his opinion regarding the woman's capacity. When legally questioned, Doctor Roger, whether he considered Aloysius Delarue to be capable, replied that he had read the medical documents, which establish that the man was excellently formed by nature; but rather, he heard the physician, Doctor Hurpuy, say that the same could not be said of his wife, due to a certain anomaly of the genital organs. And I believe that Doctor Hurpuy deduced this from certain facts, asserted without hesitation in the physical examination of the woman's body, and especially 1, from the narrowness of the genital orifice, 2, from...

[*Latin ed. p. 533*]

PARISIAN. 533, lacking the strength to dilate sufficiently, 3, due to a certain insensitivity, whereby, after pressure applied with a finger to the vaginal opening, no sensation of pain is produced, 4, and finally, due to an unusual position of the opening. Indeed, I confess that I do not legally approve of all these reasons for female impotence; but they are sufficient, and even more than sufficient, to demonstrate, by deductive reasoning, the impossibility of copulation. Therefore, it is true that what Dfii Brouardel

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and Tarnier, canonically questioned, affirmed under oath, namely, that a comparison of the genitals of both spouses demonstrates that the introduction of the male member into the woman's vagina did not, as says Mr. Tarnier, or could not, as Mr. Brouardel wishes to say, truly take place. And these things, most wise judges, are clearly of great importance, because it is one thing to say that a marriage is not consummated based on an examination of the woman's integrity, and another to deduce the lack of consummation from a comparison of the genital organs of both spouses. He who says that the woman is intact, excludes the fact of consummation, if it is permissible to speak in this way, in the second act. But he who compares the genitals of the spouses, if, from this comparison, he says that the marriage is not consummated, he must be considered to have established the fact of consummation in the first act, that is, with regard to its possibility. The simple fact of consummation is not such that it can be deduced from an examination of the male member. But if this male member is compared with the woman's vagina, then the possibility of consummation can indeed be excluded, whenever, from the conformation of either or both, an impossible entry appears. Therefore, if it is true in this case that "the comparison of the genitals of Mr. and Mrs. Delarue allows one to affirm that the introduction of the husband's penis into the wife's vagina did not truly take place," then we must admit that the marriage of Aloysius with Susanna was neither truly consummated, nor could it have been consummated. From this, everything is explained and vanishes that might have caused some difficulty. The man believed that the marriage had been truly consummated, because he was good and simple, and...

[*Latin ed. p. 534*]

534. PARISIEN. maintained that, according to the opinion of physicians, it could also, for a long time and in good faith, be presumed to exist. Afterwards, he stated that he had never consummated the marriage, because, truly knowing himself, he feared that he might be deceived. Today, however, she refuses any further examination of her body, because she does not wish to expose herself. What more can be said? I see that an even graver difficulty can be presented; but I contend that it is also easier to resolve. Let it be that the examination of the woman's body took place three years ago; let it be that it is not legally established that the spouses, after that examination, did not live together anymore; let it be that the woman refuses today to submit herself to examination. But what of it? What consequence? What conclusion? The records, which are of public notoriety, prove that the woman has not seen her husband anymore. And even if they have lived together; indeed, even if they have had relations together, and that of their own accord, with marital affection, with mutual desire; shall we say that they have achieved what could never have been achieved due to a natural, permanent defect? And I would say this, if the impossibility of

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marital relations were due to some coldness, to an aversion of the mind, to a weakness of the nerves. But since it is due to the conformation of the organs, to a notable asymmetry of the genital parts, I ask, how can it be that all these things have vanished, both in the man and in the woman? Therefore, to which direction should the most astute defender of the bond turn? It is necessary to admit that the marriage of Aloysius with Susanna could only have been consummated by a miracle. Therefore, nothing remains, Most Reverend Fathers, except that, at the request of the actor, and with prayers received with kindness, that the Most Holy [Father] be petitioned for a dispensation from a marriage that is valid but not consummated. Indeed, very strong reasons are presented for granting a dispensation. And it is proven in law that the most valid reason for granting a dispensation is that which, if legally proven, would be sufficient to declare the marriage null. But we have in this case a probable case of the woman's impotence; probable, not because I do not believe it to be true, but because...

[*Latin ed. p. 535*]

PARISIAN. 535 In the records, it is explicitly stated: "Therefore, nothing prevents, at least, the granting of a dispensation." 2 We already have the civil divorce judgment; and it is not unknown to Your Eminences, Fathers, what evils could arise from this, to the detriment of souls, if the dispensation is denied. 3 Finally, there is the persistent aversion of the parties, which, especially on the part of the woman, seems to be impossible to overcome by any means, as the woman herself declared, and witnesses testified. THE OPINION OF THE CANONIST. This man says that three things must be considered in the present case: namely, the process, the alleged non-consummation, and the gravity of the reasons for which the dissolution of the bond is requested. Under these three headings, therefore, I shall present what occurs to me, to be submitted to Your Eminences and Fathers. REGARDING THE PROCESS. - No one fails to see that the process is tainted by multiple and serious defects, not that the tribunal was not duly constituted, for in this regard, the prescriptions were most strictly fulfilled; but rather, substantial defects on the part of both spouses notably diminish, if not completely destroy, the probative force of the proceedings. Indeed, the cited Susanna appeared before the ecclesiastical judges, and under oath affirmed that her marriage had never been consummated, which she attributes to the fault of her husband; but she absolutely refuses any obstetric examination, and although she is not opposed to the man's petition for the dissolution of the bond, she refuses to cooperate with the investigation, not producing witnesses on her part. Therefore, the testimony of the "seventh hand," as they say, is completely lacking on the part of the woman, while on the part of the man, it is very incomplete. In addition to the doctor Hurpy, only three witnesses are presented by the man, namely, the Reverends Lafosse, Roger, and the brother of the plaintiff. The testimonies of three

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others are presented in the case before the civil court, of whom two have died before the commencement of the ecclesiastical process, and the third, the Reverend Gavet, is held captive by a serious illness, and is therefore completely unable to appear before the judge and give testimony. Among the acts of the process, authentic attestations are found, both of death and of serious illness; but to what purpose they serve, Your Eminences and Fathers will judge. - It does not seem sufficient why...

[*Latin ed. p. 536*]

536. PARISIEN. It has not been possible to find witnesses who can offer testimony before the judges themselves, or, if that is more difficult, before a delegated judge, according to the terms of the aforementioned Benedictine Constitution. – In my judgment, such a flawed process increases the possibility of error, and deserves only a negative response. It cannot be denied that the question can be raised, and indeed it is raised, whether strict adherence to the Benedictine Constitution is required when dealing with a dispensation before the Sacred Congregation. Since the act of the Sacred Congregation, which is "consultative," differs essentially from a "judgment," in which the nullity of a marriage is declared; and it appears certain that the solemnities of the Benedictine Constitution, which involve judges rendering a judgment, pertain to those who are to issue a consultative opinion, so that a negative judgment is not improbable. Nevertheless, a contrary judgment is safer and truer, and is, moreover, in the very style of the Sacred Congregation. – See the Letters to the Archbishop of Paris, in the Acts, and this is further confirmed by reason. Indeed, in dispensations of this kind, as well as in cases concerning impediments arising from impotence, the "non-consummation" is, so to speak, a central and fundamental fact upon which the solution depends. Therefore, it must be fully proven, and there must be no positive doubt remaining about it, and therefore all those things which have to be observed, all of which tend solely to reveal the truth about the fact of non-consummation, removing any suspicion of collusion between the parties or any deception. Therefore, if the process lacks the canonical form, especially when the defect is attributed to a perverse will rather than an error, the petition can and should be rejected. The defect in the process is sometimes remedied by a dispensation from the Holy Pontiff; but whether this is advisable in this case will become clearer from what will be said regarding the second point, namely, the non-consummation, to which we now turn. ON NON-CONSUMMATION. – To make the discussion of this matter, upon which the fate of the petition largely depends, clearer, it is helpful to have before us the history of this unfortunate marriage.

[*Latin ed. p. 537*]

PARIS. Die 20 Novembris 1880, Aloysius Delarue, vir conditionis

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civilis, contraxit matrimonium cum Susanna Pauchet, quae videtur fuisse conditionis aliquantum inferioris. In actis describitur « cucitrix », id est, couturière (seamstress). Huius matrimoni praecesserunt tractatus ab anno ferme, sed non tales ex quibus futuri sponsi cognitionem adaequatam indolis et qualitatum utriusque respective habere potuissent; nam ut testatur frater Aloysii: « Simul convenerunt in loco publico, nequaquam apud parentes. Statim post matrimonium incoeperunt discordiae, quamvis vir certissime sponsam amplexaverit et ipsa coniux vicissim se « contentissimam » matrimonio se exhibuerit, et infelix haec conditio rerum durasse videtur toto tempore cohabitationis. Ratio sufficiens huius discordiae habetur, si admittamus quae a viro affirmantur, nempe quod ab initio et toto tempore quo coniuges simul vixerunt, mulier pertinaciter officia coniugalia recusaverit, protestans se nolle filios habere. Sed hic, difficultas; mulier recuse negat se unquam debitum coniugale recusaturam, si requisita fuerit. Pluries affirmat virum nunquam copulam rogasse aut attentasse. Interrogata utrum parata fuerit consentire marito petenti: respondit cum emphasi « utique, certe ». Deinde quoad dissensiones affirmat has unice attribuendas esse indoli iracundae et violentae mariti, qui illam ex causa levissima saepe verbis non tantum sed et pugnis impetivit. Quidquid de hac contradictione inter ipsos dicatur, certum est coniuges simul habitasse usque ad 1886, discordia non obstante; et illo anno, Susanna, occasionem nacta in itinere quod singulis annis solebat suscipere ad alium locum causa sanitatis et recitationis, declaravit se nunquam ad domum et consortium mariti reversuram. Quod autem alicuius momenti certi est, vir, facta monitione de restituendo domicilio, processum instituit pro divortio coram iudice laico, vix quindecim elapsis diebus a quo uxor primo declaraverat se nolle reverti! ! Quae ratio agendi praeter irreverentiam erga Sacramentum, indicat etiam quamdam praecipitationem et animi intemperantiam, quae.

[*Latin ed. p. 538*]

538. PARISIEN. Certain individuals seem to confirm what was alleged by the woman, concerning the causes for a dispensation. In order to destroy the husband's petition and obtain a divorce based on the alleged impotence, Susanna presented the testimony of two physicians, who testified that she was still a virgin and that the marriage had not been consummated. Nevertheless, a judgment was rendered in favor of the husband by two tribunals, namely, the "first instance" and the "appeals" court. Regarding this judgment, it should be noted that the civil court abstained from any judgment, both concerning the alleged impotence and the non-consummation, and instead decreed that the solution was due to Susanna having abandoned the conjugal home. Later, Aloysius, when he deemed it advantageous, himself obtained a declaration of non-consummation in his petition to the Holy See for a dispensation. Now, let us see what can be said about the non-

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consummation, distinguishing certainties from uncertainties.

1. It is established that the spouses lived together for six years, except for a few weeks during which Susanna was with her family or in another place, with the consent of her husband; during this entire time, the spouses were accustomed to sleeping in the same bed.

2. Both were young at the time of the marriage: the husband was 25 years old, and the woman was 19 years old, and neither was affected by any infirmity; furthermore, Aloysius, captivated by a strong love, had taken Susanna as his wife; and she, for her part, had shown herself to be very content.

3. The suspicion of impotence was raised by the husband, and it appears to be excluded by the testimony of the physician Hurpy, and nothing can be obtained from the testimony of other physicians that contradicts Susanna's ability for conjugal intercourse. Indeed, all of these things constitute the strongest presumption of consummation, which cannot be refuted except by certain and conclusive arguments to the contrary.

But, pray tell, where are these arguments? The testimony of two physicians, Tarnier and Brouardel, is cited regarding Susanna's "lack of defectiveness," who, after examining her vulva – of the body "they do not speak" – declared. Indeed, the condition of the female genital organs is an indication, if you will, and indeed, primarily of physical virginity.

[*Latin ed. p. 539*]

PARISIAN. 53V> These [signs of virginity] are not unique, and, moreover, they are not an infallible sign. Medical writers recount cases in which women have retained their hymen intact, even up to the time of childbirth, and have exhibited other so-called signs of virginity in the genitals. - See Lazzaretti, *Legal Medicine*, Book III, pages 386 and following. Page 47 of the same book. Furthermore, he recounts a case reported to him by the court of Padua, in which five physicians testified to the virginity of a woman after an examination, contrary to the fiscal physician who believed that she was not only not a virgin, but had also been a mother! Voi, page 390. It may be admitted that the physical condition of Susannah, as depicted by the two physicians, can scarcely be explained if we assume that the marital relations between the spouses had been normal during those six years of cohabitation. But this cannot be assumed, since from the records it is clearly evident that the contrary was the case. Whether we hear Aloysius or Susannah, it must be concluded that there were such disagreements between them that it is scarcely conceivable that the usual marital duties took place at all during the entire period of cohabitation, and it is highly probable that they either completely ceased or were entirely suspended within a few months after the marriage. - But in the beginning, it was not so. The spouses were joined to each other in love and by the bond of marriage. This is certain

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regarding Aloysius; it is also testified to regarding Susannah, both by Aloysius and by his brother. Indeed, a single act of intercourse is sufficient for the marriage to be consummated, as is evident. The condition of the vulva does not absolutely exclude intercourse from which generation can follow; therefore, the presumption remains in favor of consummation, even against the testimony of two physicians - all the more so because, contrary to the aforementioned testimony in a matter that is obscure and therefore subject to errors, we have the fact that the spouses slept in the same house, that they loved each other, that they were young and not hindered by any illness, and that, finally, no mention is made of impotence on the part of either party: all of which, if I am not mistaken, support the presumption of consummation, notwithstanding the declaration of the physicians. Besides the testimony of the physicians, those things that are alleged as evidence of non-consummation are of little or no weight, and...

[*Latin ed. p. 540*]

The matter concerning S. can be reduced to two arguments. The first is that S., either from aversion to having children, or from the very beginning of the marriage, decided to refuse or only feign to consent to the marital duty – which seems to rest on two grounds. First, on the very night of the wedding, as she herself admits, she did not allow her husband to approach her. Second, she often repeated that she did not want to have children, that she did not want to "be a nurse," etc., so that her perverse will regarding this matter was well known in the city. Indeed, if these two points were joined together, so that it could be established that this perverse will was the cause of Susanna's reluctance, and it was also certain that she persevered in this intention throughout the marriage, then the matter would be further complicated: because the marriage itself would have been null due to a condition contrary to its essence. But to prove this, declarations made by Susanna before and after the marriage must be presented, and it must also be certain that such words were seriously spoken by her, – not in jest or with some levity – but there is no trace of this in the records. Susanna does not deny that she sometimes uttered such words, but in jest and not seriously. It can be added that, as discord grew between the spouses, these declarations were made and repeated seriously – nothing is more likely given the discord; but what of it? Must we conclude from this that she had a firm will throughout the marriage to repel her husband because she did not want to have children? And then what should be said about "her love for her husband," about "her past happiness," about which the husband eloquently wrote to his wife in his letters after the separation? However, the accuser seems to press the point that Susanna confessed that on the night of the wedding she did not "allow herself to be touched by her husband." Let that pass; but what about all the subsequent nights, for they always slept in the same bed? Certainly, this action of the nineteen-year-old bride

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admits of other explanations, lest we resort to the monstrous theory of a perverse will preventing conception, which is sometimes found in women after a difficult childbirth experience.

[*Latin ed. p. 541*]

PARIS. 54 [pounds] were given to young women, who, as far as I know, were not prostitutes, never. Nothing in the records suggests that the husband conspired with his wife to prevent procreation; indeed, he testifies that he always desired to have children, and that he entered into marriage with that purpose in mind. Therefore, only the fact of the first night, confessed by Susanna, remains, which carries little weight. It is one thing to repel the initial advances of a newlywed, which can happen for many reasons, and can be done without sin for two months; it is another thing to do the same for a wicked purpose, with a persevering intention. The former may be admitted in this case, but it is not a valid argument; the latter would indeed be a valid argument, but it is not proven. Moreover, the claims made about the "notoriety" of Susanna's intention are weak. A rumor or reputation can easily arise from words, or from a joke, or from anger, especially when disagreements have become public knowledge; furthermore, it is to be suspected that the citizens, both men and women, were not particularly gentle towards the beautiful Parisienne girl, who was imprudent in her words, and, what was worse, extremely eager for the admiration of men. Human affairs are at stake, and therefore everything must be interpreted in a human way. Therefore, let us dismiss the notion of "notoriety." Besides the "notoriety" and the account of the first night, another argument is presented, namely, the legal confession of the accuser in his testimony before the ecclesiastical judges. In this, he denies that any union ever took place between them, because the wife always refused, avoiding the burdens and inconveniences of having children. "I have tried several times to consummate the marriage." "My wife always resisted. She did not want to have children." He repeated these and similar phrases several times throughout his testimony. However, besides the fact that such a confession is entirely to the advantage of the confessor, and proves little or nothing regarding the rights of others; in this case, it has no value or validity whatsoever: and this is proven from the very records of the proceedings. Among the witnesses called by the accuser, one is Mr. Roger, a civil lawyer, bound to the Alovsii family by friendship.

[*Latin ed. p. 542*]

The Parisian witness, Mr. Roger, favors Aloysius and is hostile to Susanna; this fact must certainly be kept in mind. Indeed, among other things, he testifies: "Mr. Delarue always told me that he believed he had consummated his marriage with his wife, and that it had been perfect. His good faith is known to me; I have doubts whether Susanna acted with the

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same good faith. Furthermore, 'During the course of the case before the civil judge, and Mr. Delarue, in praising Aloysius, presented a testimony from two doctors regarding his virginity.' Now, let us hear the doctor, Mr. Hurpy, another friend of the Delarue family and a witness in the case. 'I believe that, given the disproportion of the genital organs of the spouses, it is possible that they, over a long period of time, could sincerely believe that they were properly performing the functions of procreation, when in reality they were not. From intimate conversations with Mr. Delarue, I know that he has fulfilled his conjugal duties with the intention of procreating children.' The statements made by Aloysius, reported by these two witnesses, are of even greater importance because they were made during a 'non-suspect time,' that is, before the commencement of the ecclesiastical process; therefore, they carry far greater weight than those made by him later, after the process had begun. This is the law. However, these seemingly contradictory statements can be reconciled. The young husband, imbued with good morals, may have reasonably believed that any penetration accompanied by the ejaculation of semen constituted consummation, as is the practice of all men; then, later, having been educated or rather misled by the comments of the doctor, he believed that something else was required, namely, the destruction of the hymen, etc., so that he could, in good faith, affirm that his marriage had been consummated, and subsequently deny it, as he truly denies it in his petition. Susanna also denies it, for different reasons, and, in my judgment, false ones. For she says that the husband did not demand anything, which is inconsistent with the above and contrary to experience. Whoever considers all that has been discussed so far without prejudice will certainly conclude that the evidence presented in support of the non-consummation is of little or no value.

[*Latin ed. p. 543*]

PARISIAN. 343. These are reduced to the testimony of two physicians regarding virginity, and note well that they themselves abstain from the word "virginity," which does not exclude the possibility of error, as I have already demonstrated from Lazzaretti, and it ultimately proves that the intercourse between these spouses is, in some respect, abnormal. Of the signs of non-denial indicated by the physicians, only one is valid, namely, the integrity of the hymen; for the others, as I have already said, can be reconciled with infrequent marital relations. But the integrity of the hymen can exist even with intercourse suitable for procreation. Therefore, it is not an absolutely certain argument that a marriage is not consummated. A lesser certainty of this argument is found among the physicians, for whom it suffices to cite only Lazzaretti, in his legal medicine, Lib. III, p. 98, who states that the presence of the hymen does not exclude perfect carnal intercourse. Given this principle, it can be proven that this marriage was not only valid but

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also consummated, for this is what those things uttered by Aloysius tend towards, "at a time not suspected," towards which the age and mutual love of the spouses tend, so that the conclusion inevitably follows, unless we say that fecundity is the only certain sign of consummation, which no one has dared to assert. It is sufficient for a marriage that the intercourse be of such a nature that generation may follow, not that it must actually follow, and that such intercourse occurs with the hymen intact, as almost all who have written on this subject declare, to be, as it were, at the entrance of the vagina. And this doctrine is in accordance with what is transmitted by theologians and canonists. Thus, Sánchez, De Matrim., Lib. II, (hyp. XXI, a. 2), similarly states: "It is considered consummated, whatever art is used to receive the seed within the natural vessel, without that penetration, and through it, one flesh is made." Let the esteemed judges consider whether this conclusion regarding consummation is sufficiently solid in the present case; given this opinion, the petition necessarily fails. But if it is said that it is not sufficiently certain that there was "consummation" in this case, that the matter is still doubtful, the purpose of the petition is by no means achieved. Given that there is no certain opinion regarding consummation...

[*Latin ed. p. 544*]

544. PARISIAN. The opinion concerning the non-consummation is, at the very least, probable, and there are weighty reasons for this, which it is necessary to reiterate: these reasons are sufficiently and abundantly evident in the course of the discussion. Therefore, the opinion regarding the non-consummation is probable to the highest degree. Who, after considering all things – the words and writings of Aloysius, the opinions of experts – would declare it certain? Indeed, the marriage is "in possessione," according to the axioms: "One must stand for the value of the act." "That which is done is presumed to have been done properly." Furthermore, given the established consideration of consummation, which has been abundantly demonstrated, these rules of law favor the opinion of consummation to no small degree, and most certainly indicate that this opinion is "safer"; indeed, what applies to a marriage rightly celebrated, which was followed by conjugal intercourse for six years, also applies here. Thus, even if we were to grant a true probability, indeed a greater probability, of the contrary opinion, namely, the non-consummation, nevertheless, the petition cannot be granted. Among the propositions condemned by Innocent XI is this well-known one: "It is not illicit in administering the sacraments to follow a probable opinion concerning the value of the sacrament, if a safer opinion is left aside." In this, according to Suarez, Soto, and others, is also included "the reception" of the sacrament, provided that the use of such a probable opinion, leaving aside a safer one, is a sin not only against charity, but against religion, due to the irreverence inflicted upon the sacrament, by exposing it to nullity. What, then, would follow if the

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solution of the marriage were granted in the present case? Certainly, Aloysius would proceed to another marriage; already separated from his wife, he would remain separated. To what purpose is the dispensation, if not to allow him to take another wife? And by entering into a new marriage, he would act against a condemned proposition; for even if the solution of the former marriage were declared, there would always remain a doubt about the consummation, and therefore, about the dispensation itself. Even the Supreme Pontiff cannot grant a dispensation in a marriage consummated between the faithful. Having said this, one must abstain from "causes" for the dispensation. Causes undoubtedly exist, although perhaps not as grave as the law requires. There is discord of spirits. But it is not certain that there have been any attempts at reconciliation; none have intervened.

[*Latin ed. p. 545*]

PARISIAN. Perhaps parish priests or bishops are married. Perhaps the customs of marriage, adapted to modern ways, do not permit such intervention; and if this is the case, why should favors be expected from the Church? In conclusion, I may bring to your attention the decision of the Sacred Congregation in a similar case, as reported in Pignatelli, volume 1, constitution 148. In Valladolid. "The Bishop indicated in his letters that John and Eleanor, five years ago, contracted marriage by words of the present, and for the entire five years they lived together; and then the woman acted to obtain a declaration of the dissolution and nullity of said marriage due to the impotence of John, from whom she had never been carnally known, and who remained a virgin. Which John asserted to be true. But this, he said, was not due to his natural impotence, but because he and his parents were persecuted by her, and that they had both agreed to appeal to the Apostolic See for a dispensation, as they unanimously decided to do." On February 15, 1607, the Sacred Congregation decreed: "After deliberation, all, with one voice, judged that a dispensation should not be granted, and that it should be written that, unless it is established that there is a perpetual impotence due to coldness or malice, according to the prescriptions of the Holy Canons, they should be compelled to cohabit, and that each should show the other the conjugal effect." We have here a present case with all the circumstances, with only this difference, that there, the woman took the leading part, in our case, the husband. We have a pretended non-consummation and spouses consenting to the fact, which each explains differently; we have a cohabitation of five years, and we have the indicated cause of discord and dissension. We have a very similar case indicated by Susanna in her letters; and we have a negative response given unanimously by all the Most Eminent and Reverend Fathers, which is to be highly valued in a similar matter. Therefore, the conclusion is becoming clear. Consider-

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ing all of this: Aota, Volume XXIII, section CCLXXIII, 35.

[*Latin ed. p. 546*]

546 PARIS. After all that has been said, for example, if it is alleged that the process is imperfect, or that it does not consist of the consummation of the marriage, or that the causes for the dispensation are not the most serious and do not exclude the hope of reconciliation, if the spouses were to use the means prescribed by Religion, I believe that the petition should not be granted. OBSERVATIONS OF THE DEFENDER OF MARRIAGE, BY OFFICE. Aloysius Delarue, residing in the town of Dieppe, a wealthy merchant, in the year 1880, on the 20th of November, at the age of 25, married Susannah Pauchet, a woman of Paris, who earned her living as a seamstress ("couturière"), and who was 20 years old. The young people entered into marriage with joyful and happy hearts. But the conjugal life, despite its good beginnings, had unfortunate consequences. For the spouses had disregarded the most prudent precept: "If you wish to marry, marry one of equal standing." Furthermore, Aloysius was inclined to dominate his wife, who lacked social standing and noble birth; and Susannah, accustomed to the pleasures of Paris, bore poorly both the husband's dominance and the sadness of the small town. Six years after the marriage, Susannah, under the pretext of visiting her mother, returned to Paris. And she could not be persuaded, nor could she be moved by prayers, flattery, or threats. When Aloysius brought Susannah before the civil court, she chose to have the civil bond annulled, preferring to remain unmarried rather than return to her husband. After the secular magistrate, in the first and second instances of jurisdiction, had declared the marriage bond dissolved due to Susannah's abandonment of the marital home, Aloysius was entirely determined to see the marriage nullified; and finally, he declared the marriage to be imperfect. The learned theological consultant listened attentively. However, the eminent canonist could not be persuaded to believe that the marriage in question was invalid. Nor was he deceived in his opinion. For not only is there a complete lack of any conclusive argument for the invalidity of the marriage, which is absolutely necessary in such serious cases,

[*Latin ed. p. 547*]

PARISIAN. 547 But on the contrary, there are most urgent and conclusive proofs of the marriage not having been consummated. And concerning the aforementioned, I will now, Most Reverend Fathers, present the testimonies by which Aloysius sought to prove Susannah's virginity and the lack of consummation of the marriage. These are: first, a written testimony from the doctors Brouardel and Tarnier; second, an examination of the man's body performed by the expert Hurpy; third, another testimony signed by the aforementioned Brouardel and Tarnier; fourth, a letter in which the doctor Tarnier confirms the aforementioned testimonies which

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he himself had previously published; fifth, letters in which the same expert Brouardel affirms the same. Truly, nothing more fragile can be conceived than these testimonies. For the first three, which are the basis and foundation of the others, contain an examination completed in the bodies of the man and woman, at the request of those who have an interest, without any order from a judge, without any observance of legal formalities, and without any of the precautions absolutely necessary to prevent fraud. And do not object to me that the aforementioned three testimonies were not judicial, because the two subsequent ones make them so. For it is true that what is flawed from the beginning cannot, by any passage of time, become valid. In truth, in the aforementioned examinations of the bodies, the precautions prescribed by law were omitted. The experts Brouardel, Tarnier, and Hurpy, having been chosen not by a judge, but by those who have an interest, are not considered to be free from partiality. How can these defects, which corrupt the very nature of the act, be corrected afterward? If the experts in the first testimonies acted lightly, if they favored the parties rather than the truth, they will be even more ready to commit perjury in the new testimonies than to expose their own lies. Furthermore, the new testimonies are not judicial either. For the doctors Brouardel and Tarnier did not go to a judge, they did not undergo an examination before a judge, but were content to give letters to the judge. Indeed, the Lord Gadrianus wrote to Rufinus, the proconsul of Macedonia, that he would trust witnesses, not testimonies.

[*Latin ed. p. 548*]

548. PARISIEN. Furthermore, these aforementioned testimonies, secondly, are more beneficial than harmful to us, except that, although they seem to support the faith of the accusers, it is rash to attribute them solely to two individuals, Brouardel and Tarnier. Compare, Most Reverend Fathers, the letter of Doctor Tarnier with the letter of Doctor Brouardel. In these letters, Brouardel and Tarnier, as it were, attempt to deduce the lack of consummation of the marriage, or Susanna's virginity, from Aloysius's physical conformation. If anyone were to read these letters casually, they would certainly believe that both have provided expert testimony, or rather, have expressed their judgment, without consulting anyone. But nothing is further from the truth. The same words and the same phrases appear in both letters. Moreover, the first and third testimonies of Tarnier and Brouardel are signed by two individuals. May it be far from me to wish to disparage the experts Brouardel and Tarnier. For Doctor Tarnier is entirely unknown to me, and I do not know whether he has ever been employed by the Parisian court for such matters. As for Doctor Brouardel, he is well known – the Dean of the Faculty of Medicine – and is widely consulted by women in such matters, and he defends their virginity, justly and unjustly, before the courts. Recall, Most Reverend Fathers, the

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case of the Parisian marriage. The dispute, which took place on July 21, 1888, and September 7, 1889. How much falsehood was employed by that Hercules, so that Carola d'Oliveira would deny her virginity, contrary to the judicial and unanimous testimony of five archpriests! Moreover, not only I, but also those civil magistrates who heard the case in the first and second instances, discredited the testimony of Brouardel and Tarnier. Furthermore, in the secular court, Aloysius accused Susanna of levity, while Susanna maintained that Aloysius had not satisfied her in the marital act, and to this she presented the aforementioned testimony of Doctors Brouardel and Tarnier. But Susanna lost the case repeatedly. However, what am I saying? The experts Brouardel and Tarnier themselves are accusing themselves of lying. Indeed, these doctors...

[*Latin ed. p. 549*]

PARIS. In the first testimony, they affirmed: "The genital organs of Susannah are normally formed." They themselves, in another testimony, concerning Aloysius, asserted: "We have made the same observations as Mr. Doctor Hurpy and have drawn the same conclusions." However, Doctor Hurpy had concluded: "From this examination, we believed we could conclude that Mr. Louis Delarue is well-suited for copulation; when erect, he, as Aloysius states, must acquire a volume at least equal to, and probably greater than, the average of other men." Notwithstanding these things, Doctors Brouardel and Tarnier, in the aforementioned letters to the Parisian judge, allege a discrepancy in the genital parts. They denounce this comment made by Doctor Hurpy, which must be strictly observed in legal proceedings, and who, forgetting himself, yields to Brouardel and Tarnier: "My opinion is that, given the disproportion in the inverse sense of the sexual organs, etc." Furthermore, relying on these arguments, the best theological consultant assumes a relative impotence, which is always very difficult to prove, and declares that impotence exists between Aloysius and Susannah! Let me briefly explain what is gleaned from the confession of the spouses. Indeed, in this matter, only one thing has been certainly explored: namely, that both Aloysius and Susannah can affirm what benefits them and can be infected by what harms them. Therefore, although Aloysius has always professed that he has indulged in conjugal relations at will for six years, and although he has vehemently defended himself against the asserted lack of consummation of the marriage before the secular magistrate, he swears before the ecclesiastical judge: "My wife has absolutely refused to fulfill her duty. I have never been able to achieve my purpose." If Aloysius does not delight in darkness, why does he not present the complete record of the proceedings before the secular court? Susannah uses the same method, claiming to be a virgin, but refusing to submit to a judicial examination. If you wish to believe the truth from Aloysius and Susannah, consider the letters exchanged on the occasion of their disagreement. There,

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[*Latin ed. p. 550*]

550. THE PARISIEN confesses the cause of their discord to Susanna: "You have in you a husband who is lively, but not wicked." Aloysius agrees with Susanna. He says: "How many times have you repeated to me: 'I am unhappy since the day of my marriage, and I will not be happy until the day you free me.' Did I invent this? Did you not say it? — I am convinced that if I were to consent today to return to you, the scenes and the unbearable life would soon begin again." In these very words, Aloysius also exclaims: "I have had a wife who was an angel, and I have not known how to appreciate her. Yes, I want to be your slave, and to redeem little by little the affection that you have had for me. My dear Susanna, allow me to call you my Suzon, to invoke a memory of the good old times. I live only for you, and I want to live only for you: be therefore merciful; you are so charitable." Truly, Aloysius would not have written these things to Susanna, if he had not either experienced her to be inept in the marital duty, or if he himself had not spoken the truth, when he states: "My wife has absolutely, for six years, refused to perform her duty. I have never been able to achieve my ends." Finally, it is most evident that the confession of this married couple gains all its force from the testimony of seven witnesses; and especially the testimony of women is to be valued, since they are usually more informed and less prone to perjury than men in such matters. But truly, not even one woman dared to testify against the action. Many were questioned; but not one went to the judge who would swear that the marriage was unconsummated, or that those litigating in it were worthy of belief. Aloysius was only able to find four men; among whom was his most intimate friend, the learned jurist Peter Roger, who openly accuses Aloysius of the most blatant falsehood. Given these circumstances, I believe it is necessary to speak of the reasons for granting a dispensation. With these things said, the following point is to be explained.

[*Latin ed. p. 551*]

PARISIAN. The question arises whether, in the case of a marriage validly contracted but not consummated, dispensation from the marriage should be granted. RESOLUTION. The Sacred Congregation, after discussing the matter on September 6, 1890, decided to respond: Negatively. The following points are considered: I. Marriage can be consummated, provided the woman's hymen remains intact, if the act of union is of a kind from which semen can be received within the natural vessel. II. For the perfection of marriage, it suffices that the act of union be such that generation might follow, even if it does not actually follow; such is the act that occurs with an intact hymen, as the Doctors teach. III. It is safer to hold that the marriage has been consummated, and many things can be inferred from this;

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especially, the attention given by the spouses to each other over a period of six years, with the conviction that the act has been perfectly performed. SALAMANCA ELECTION. On February 28, 1891, Session 24, Chapter 8, concerning the referral of the canonical promotion of Bajo to the position of cantor. In March of the year 1888, with the penitentiary office vacant in the Church of Salamanca, the Bishop, together with the chapter, held a competition according to custom. However, in Spain, with regard to the provision of the penitentiary office, the rule is in force by the constitution of Gregory XV, which substantially adheres to the disposition of Chapter 8, Session 24, of the Council of Trent, and which stipulates: "By the ordinaries of the places and the chapters of the aforementioned churches, a term of sixty days must be assigned by affixing edicts; and after the expiration of this term, by the ordinaries and the chapters, in the presence of those who oppose, one point must be drawn by lot from some book." COMPENDIUM OF THE MATTER.

[*Latin ed. p. 552*]

"552 Concerning the examination of candidates for moral theology positions, and regarding this matter... each candidate shall publicly read for an entire hour, and two others shall argue for another hour... After these proceedings, only those candidates, chosen from among those present, who, after a thorough examination, are judged by the Ordinary and the Chapter to be more capable and suitable than all the others, shall be admitted and elected... Furthermore, those who are to be elected at such a time must have been established in the forty-first year of their age and beyond, and must have attained a degree in sacred theology or canon law, according to the provisions of the decrees of the Council of Trent... However, if among those present, there should be someone whose eminence in learning, doctrine, and other merits far surpasses all the other candidates, and who has not yet reached the age of forty, that person, notwithstanding this age, provided that he is at least thirty years of age, may, at the discretion of the aforementioned Ordinary and Chapter, be elected and lawfully admitted to the canonry and the aforementioned position, if it appears to them to be expedient for just and reasonable reasons. Therefore, in the aforementioned competition, after the legal time had elapsed, six candidates were found, who, having fulfilled the requirements of the law, were all approved by the chapter in a session held on April 28, 1888. But, the Bishop said, after these proceedings and approvals by unanimous consent of the chapter on April 28, a question arose, or rather, a proposal was put forward, namely, that it was necessary, before the election, to decide by the votes of the chapter whether the candidates were eligible or not, considering the extraordinary merits of those opponents (candidates) who had not yet completed their fortieth year. Those who supported this preliminary question further argued that only one vote should belong to the Bishop, and not four, as is

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legally the case in this Church, according to the agreement of the year 1851, considering the number of members of the chapter. This proposal was undoubtedly put forward with the intention of undermining the law."

[*Latin ed. p. 553*]

At Salamanca, certain individuals, fearing the action of the Bishop, deemed it necessary for a portion of the chapter to reject a certain matter, and to deliberate on it without the knowledge of the Bishop. Subsequently, upon learning of this, the aforementioned [Bishop] suspended the chapter meeting and consulted with the Metropolitan, the Bishops, and the chapters of the province, who all, with one voice, declared that this preliminary question was entirely unprecedented, and they cited several examples of those elected who had not yet reached the age of forty years, as was the case with the immediate predecessor in this very church of Salamanca, despite the opposition of those who were forty years of age. Influenced by these responses and the nature of the matter, the aforementioned [Bishop] wrote to the chapter, advising them to maintain the custom of both this church and the rest of the province. The aforementioned opinions of the chapter seemed to be accepted by the Bishop in practice, although not entirely from the heart, as they later made clear. However, in order that the electors might not proceed with a doubtful conscience in this matter of such importance, they were invited to consult with the Holy See, which they reluctantly did; and, having withdrawn from the proposal regarding the necessity of a preliminary question, all the members of the chapter, as they had promised, proceeded to the election with the Bishop. The election took place on the eleventh of May, with entirely secret ballots and in accordance with the established procedures. In the first and second scrutinies, no candidate received a majority of the votes. In the third scrutiny, out of 18 votes, Dr. Primitivus Vicente received 11 votes, Dr. Prosperus Gonzalez Tufiòn de la Escosura received 6 votes, and Dr. Antonius Gonzalez received 1 vote; therefore, Brother Primitivus Vicente was declared elected by the silence of those present. Indeed, the opposing candidates were called individually before the Bishop and the chapter, and were asked if they had anything to say regarding the election and the preceding events; and all of them, even Dr. Tufiòn, openly declared that they had nothing to express except their gratitude to the Bishop and the chapter for the approval of the exercises, as is evident from the chapter documents. In the chapter session that followed on May 15th, Dr. Tufiòn presented a written complaint before the chapter.

[*Latin ed. p. 554*]

554. Salamantina was appointed, alleging that her reputation had suffered damage thereby; however, in a session held on May 27th, in which she

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obtained the right to be invested, after a prior canonical investigation and by our mandate, the aforementioned Dr. Timón, through his procurator and two witnesses, lodged a protest, declaring the proceedings contrary to the laws and to justice. In this session, despite the Bishop's mandate, seven capitulars were present, namely, those who had raised the preliminary question. With these circumstances established, Dr. Prosper Tuition presented a petition to our tribunal against the chapter and the ordinary prelate, and against the elected candidate, citing the promoter of justice, initiating a legal action to reclaim the canonical right to which he believes he has a superior claim, and seeking to invalidate the election. The facts upon which the plaintiff relies are as follows: 1. The age of the elected candidate, who has not yet reached the age of forty, a requirement that has been overlooked. 2. He alleges that the freedom of the electors was restricted in the following ways: a) by the Bishop, because the chapter was dissuaded from pursuing the preliminary question, and b) by the presence of guards, commonly known as "Agentes de orden público," around the election hall, only from the outside. 3. He asserts that public opinion, or the informed opinion, favored him over the opposing candidate. After these statements, the Bishop, having recounted several details concerning the character of both candidates, and the advocate whom the plaintiff had chosen to defend his case before the Spanish tribunals, then addressed the seven capitulars, who were favorable to the plaintiff in this matter, as follows: "From what has been said, it is clear how important it is to remove this dispute from this court and to appeal to Your Holiness, not because of the effectiveness of the plaintiff's arguments, which are entirely without merit, as I will briefly demonstrate, but because of the scandal that will arise from these circumstances." And indeed, although the elected candidate has not completed the age of forty years, since, according to the judgment of the chapter and the ordinary, he was found to be more suitable, no one can doubt the validity of the election: for a similar question, having been repeatedly decided in favor of the election,

[*Latin ed. p. 555*]

"The aforementioned affair, concluded in the year 555, pertains especially to a matter originating in Lérida and brought before the Roman Curia in the year 1739. The assertion concerning the suppression of the freedom of the electors can be readily demonstrated from the documents of the chapter; indeed, if anyone intended to exert coercion, there were advocates for the plaintiff who spared no effort to ensure that the opinion of the uneducated populace prevailed, both before and after the literary exercises. Furthermore, although the events recounted in the pamphlet are admitted, nothing can be deduced from them that would undermine the complete freedom of the electors. Therefore, I am astonished that an argument is raised concerning the presence of guards of the public order, who were

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sent only to ensure that order was maintained within the church cloister where a crowd of those awaiting the outcome was gathered, for it is far from the truth that they instilled fear in the electors, and this circumstance was unknown to the chapter itself. A ridiculous fear! Moreover, what is added concerning the opinion of certain learned men is refuted by what has been said. Some have attempted to praise the actor, claiming that he would be an adversary of the Bishop, and with ease stirred up the minds of a turbulent mob. This was a fabricated opinion, which the actor sold to those who favored him. Considering all of this, eight of the fifteen canons, who constitute the more reasonable part, scarcely after the citation was issued, signed a petition to the Bishop, imploring him, by no means, to allow the curial officials to become aware of this matter, should the actor and his advocates seek to cause scandal among the faithful by undermining the dignity of the Bishop; but rather, to appeal to Your Holiness, plainly demanding a resolution of this case. Therefore, since the matter is still pending, and the dispute has not yet been contested, I earnestly implore Your Holiness to deign to bring this cause before the Apostolic See, and to have it resolved by the Sacred Congregation, or by a Council, or by Bishops and Regular Canons, unless it seems more fitting to impose silence on the actor, based on the information received."

[*Latin ed. p. 556*]

5. SALAMANCA. Having presented these documents to the Sacred Congregation, and after a hearing on June 7, 1889, a decree was issued, which is recorded in the files, and the customary procedures were followed. Now, however, the case is being considered under the formula of doubt written at the bottom. Synopsis of the Argument. DEFENSE OF THE REVEREND TUÑON. The Reverend Tunon argues that, in accordance with the Tridentine law, chapter 8, session 24, which stipulates that a confessor must be chosen "who is a master and is 40 years of age, or another who is more suitable for the needs of the place," and further, with reference to the decree of Pope Gregory XV, which explains and confirms the Tridentine provision for Spain, cited above, his client was demonstrably more worthy and more suitable than all the other candidates, and therefore should have been preferred. This argument is primarily based on the testimony of the secretary of the chapter, who affirms that the Reverend Tunon, having fulfilled all the requirements stipulated in the edicts, was elected by unanimous vote of the chapter. From these words, the advocate believes that it can also be inferred, and he strives to demonstrate, that his client was validly elected in the first scrutiny. However, "a second election is not permissible when a previous election is valid," according to the Decree of the Sacred Council, 691, number 13, concerning Malinos, with common consent. Therefore, the question would seem to be immediately resolved. However, the advocate further contends that the Bishop attempted, through letters, visits, and

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intermediaries, to dissuade the canons from electing Tunon, as the priests of Garz, Prida, and Professor Crespo affirm in unison. However, despite their diligent and unjust efforts, these attempts were in vain; for, according to the same advocate, the majority of the chapter always remained in favor of the Reverend Tunon. Indeed, the Reverend Tunon himself states: "The chapter consistently recognized the right that Prosper Gonzalez Tunon de la Escosura had to be presented. Before the election, it is clear that the chapter felt this way, from the very opposition and the Bishop's inexcusable conduct, which sought to prevent him from being elected; in the second vote, eight canons..."

[*Latin ed. p. 557*]

FIFTY-FIVE of the fourteen, with whom the chapter was united, cast their votes in favor of D. Gonzalez Tuñón; and after the election, eight of the chapter refused to attend the session of the installation of the elected penitentiary. And furthermore, as soon as the document was known, in which Gonzalez Tuñón was exercising a double action, namely, the nullification of the election of the penitentiary, and the assertion of a better right to provide for said position, seven of the chapter appealed to the ecclesiastical judge in writing. "Now, if a greater part of the canons yielded to the vote for the Bishop in the third scrutiny, according to the accuser, this is to be attributed to the public security guards, who were called for this purpose and were stationed in front of the session hall. Moreover, what was done out of fear should not be considered valid. Therefore, although the majority of the chapter voted for the priest Vicente in the third scrutiny, nevertheless, because of the coercion used, even against those who were present, the election should be declared invalid and null. Furthermore, the priest Vicente is thirty-seven years old. Moreover, although the Gregorian Constitution, which is in force in Hispania, expressly permits the election of one who is under the age of forty to be a penitentiary, nevertheless, this is under the condition that "he clearly surpasses all the other candidates in the judgment of the same Ordinary and chapter." But the priest Vicente, besides being younger in age, does not surpass the others; indeed, until the third scrutiny, he was unable to obtain sufficient votes. On the other hand, the priest Tuñón obtained the unanimous vote, or at least the vote of the majority, in the first scrutiny, and is highly recommended for his merits. For he honorably completed his studies in theology, as testified by the Most Reverend Archbishop of Toletano: in the year 1884, he was approved for the position of lector canon of the church of Badajoz; shortly after, he worthily accepted the office of curate; and finally, he was appointed Master of Sacred Theology in the seminary of Toletano, where he excelled in intelligence, zeal, and precision, as the Toletano Ordinary himself, the rector of the seminary, and others attest. And this is not all; for the Bishop of Salamantina

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made this man so esteemed that...

[*Latin ed. p. 558*]

558 SALAMANTINA had, a few years ago, a priest as its Vicar. Vicente, who was absolutely the most worthy, but was considered the general candidate. Therefore, the speaker believes that he should be chosen, and that this is especially preferable in the case of a competition with another candidate who is younger. DEFENSE: The Sacred Congregation has considered the matter. He explained that, in fact, the Sacred Vicente and the Sacred Tunòn were presented, and that the Sacred Tunòn received the favor of the superiors. The first argument in favor of Vicente was that, if the Bishop were present, VICENTE would be chosen. This was initially presented as a significant point, namely that it had been validly noted that the argument of the secretary of the chapter was as follows: "I, etc., testify that the Sacred Gonzalez Tunòn obtained, with unanimous suffrage, the votes in the first and third scrutinies." This wording, however, is misleading, because it implies that the selection was made by all those present, and that the parts were so divided that, after the competition, Tunòn was elected according to the edicts. Furthermore, it can be understood that, although Tunòn received a second place, with six votes, the matter is not so simple, because there is a difference between the votes of the Sacred Tunòn and those of five others, and that the selection is not based on the knowledge of the superiors, but rather on the knowledge of the chapter. In other words, the Sacred Tunòn was not included in the list of those approved, and therefore, he was not elected. However, if the words are understood to refer to the renunciation of the first votes, then it is clear that all the votes must be considered, and that it is not necessary for the Sacred Tunòn to have obtained a unanimous vote in order to be considered elected. Indeed, the Sacred Congregation, having considered the matter, concludes that the Sacred Tunòn did not obtain a unanimous vote of the chapter, and therefore, he was not elected. Furthermore, the Sacred Congregation points out that the Sacred Tunòn received the favor of the superiors, and that he obtained the first place with a vote on April 28th.

[*Latin ed. p. 559*]

In SALA M ANTIN A, another matter occurred during the assembly on May 11th. Therefore, the entire elaborate argument constructed by the priest Tunòn collapsed under its own weight; for approval differs entirely from election, and neither confers a definitive right. Furthermore, it is clear that the unanimous vote given in favor of Father Tunòn did not exceed the limits of approval in terms of knowledge or inclusion, and that the words of the secretary must be understood in this way, as evidenced by the testimony of the Ordinary, to which everyone should always give due deference, and as Benedict XIV repeatedly reminds us in his celebrated

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constitution. This is confirmed not only by what the Reverend Primitivus Vicente recounts in detail, but especially by this testimony, which six chapter members, sincerely devoted to their Bishop, signed in his name, and which reads as follows: "1. Since seven chapter members who appear to be acting as parties were separately summoned, the undersigned considered it just and prudent, not as a chapter, but only collectively, to present the following document, so that those who, as is presumed, have sent their opinions to the Holy Congregation, may also present them to the chapter's consultation. 2. Each of the undersigned has cast his vote in the aforementioned election, keeping in mind the Gregorian Constitution, according to the dictates of his conscience, without being influenced by any human consideration, but only considering justice and the benefit of the Church. 3. It is impossible to accuse any of those who elected or spoke out of coercion exerted by the prelate; for the place and manner of the election, as handed down by our predecessors, guarantee the greatest possible freedom of suffrage; and indeed, the manner of the election has been observed with the utmost respect for the law. 4. The elected penitentiary, for a period of sixteen months from the time he took possession of his office, diligently and with the approval of all, performed his duties, shining with zeal for souls, doctrine, and prudence, which is most clearly demonstrated by the speech given on the occasion of the celebration of the centenary of Catholic unity in this church, which, given the circumstances, required a particularly eloquent and..."

[*Latin ed. p. 560*]

560 The doctrine and prudence of Salamanca, by common consent of the chapter, were entrusted to it. "Having considered these matters, the purpose was to clarify the following question: Whether the election of the Reverend Primitivo Vicente to the canonical penitentiary office is valid in this case. RESOLUTION. The Holy Congregation of Councils, after mature deliberation, on February 28, 1891, decided to respond to the proposed question with: Affirmative, that is, it is upheld. FROM WHICH THESE CONCLUSIONS ARE DERIVED. I. Concerning the provision of penitentiaries in Hispania, the Constitutions of Gregory XV – Suprema – are in force, by virtue of which, through the local Ordinaries and Chapters of churches, a term of 60 days must be assigned by affixing edicts. II. After the expiration of this term, by the Ordinaries and Chapters, in the presence of those who oppose, one point of moral matters must be drawn from a book opened at random, and each of the opponents must publicly read for a full hour, and two others must argue for a full hour on that subject. III. After these proceedings, only those should be admitted and elected to provide penitentiaries, who, in the judgment of the Ordinaries and Chapters, are found to be more capable and suitable than all others. IV. Those who are elected must, at the time of the election, be in their fortieth year

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and beyond, and must have been graduated in Sacred Theology or Canon Law, according to the decree of the Council of Trent. V. Nevertheless, it is permissible to elect and it is lawful to choose from among those present, one who, by the superiority of his learning, doctrine, and other merits, far surpasses all others, according to the judgment of the same Ordinaries and Chapters, even if he has not reached the age of 40 years; provided, however, that he is more than 30 years old, if it seems expedient to them for just and reasonable reasons. VI. Nor, according to the custom established in Hispania, is it necessary to decide before the election by the votes of the chapter.

[*Latin ed. p. 561*]

SALAMANTIGA 561, concerning whether they are eligible or not, considering extraordinary merits, those who had not yet completed the age of 40 years. VII. In the case of the election, it seems that Sacred Vicente was confirmed, because his outstanding erudition and doctrine, and other merits, clearly surpassed all other candidates.

SAINT FIDEI OF BOGOTA: CONSTITUTION, INDULGENCE, AND ALIENATION. September 6, 1890. Through summary petitions, a COMPENDIUM OF FACTS. The Bishop of Saint Fidei of Bogota addressed these letters to His Holiness: "Since it often happens in these places that the faithful desire to satisfy debts arising from movable or immovable ecclesiastical goods, or even from censuses, revenues, and other similar pious bequests, and they are unable to restore them, either because they have fallen into poverty, or because they have nothing else to live on besides said goods: therefore, I humbly implore Your Holiness, that, if it seems opportune to You in the Lord, You would deign to grant me the faculty of making arrangements with these debtors, or even granting them complete remissions, as the circumstances may warrant."

"Furthermore, since it is often necessary to sell certain immovable properties, such as fields, small urban or rural houses, which provide little or no benefit, and are subject to new encroachments, while the price of these could be more usefully applied to the repair of churches, especially rural parishes, or to sacred furnishings necessary for them: I humbly beseech Your Holiness, that, if it seems opportune to You in the Lord, You would deign to grant me the faculty of disposing of such goods, as the circumstances may warrant, and of applying their price to the aforementioned purposes."

Acts, Volume XXIII, page C C LX XIII, 36.

[*Latin ed. p. 562*]

562. The Disputation concerning the Decree of the Sacred Congregation of Bogotá regarding the first part of the petitions, where the matter is of the power granted to the Bishop to arrange settlements and grant

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remission of debts, has noted that it is not clear to whom this pertains, whether to the owners of ecclesiastical or pious goods, whether they are legitimate or illegitimate, whether they hold only a civil title, or also a natural and ecclesiastical one, whether it concerns tenants, farmers, and those holding property under lease, or those exercising full dominion, at least in the civil order. Whatever the case, it is certain that this pertains to those who, while obligated to provide something under this or that title, have fallen into such poverty that they are unable to pay their debts and are being harassed. To these, the pious Church has never refused or neglected to offer assistance, as countless documents held by the Sacred Congregation attest. However, considering the multitude of cases and the distance of places, whether this power to arrange settlements or even to grant remission of debts, which is reserved by law to the supreme authority of the Church, should be communicated to the Ordinary, and, if so, to what extent and for what purposes, this was to be judged by the Most Reverend Fathers. Furthermore, regarding the other part of the petitions concerning the alienation of ecclesiastical property, especially of items of modest utility, in order that those pertaining to worship may be maintained and necessary items procured for the churches, it is certain that the Sacred Congregation has often granted permission; indeed, the common law, provided that the matter concerns items of lesser importance and of small value, has entrusted this matter to the Ordinaries, as is evident from the well-known chapter "Terrulas." Therefore, in the present case, it was not a question of adding to the Bishop's power, but of extending it to matters of greater importance. Whether and to what extent this is advisable was left to the Most Reverend Fathers to determine. With these observations, the question was raised as to what should be answered to the petitions.

RESOLUTION. The Sacred Congregation, having knowledge of the matter, on the 6th [day of the month].

[*Latin ed. p. 563*]

FROM THE SACRED CONGREGATION OF THE BOGOTA 563, September 1890, it was decided to respond: "If the matter concerns ecclesiastical goods alienated during past periods of instability, or concerning revenues and other payments redeemed from the public treasury, then, according to Article 29 of the Concordat between the President of the Republic of Colombia and the Roman Pontiff in the year 1887, the Archbishop, with the power to grant dispensations for a period of ten years, or to admit to a settlement, or to authorize alienations, shall have the consent of those who have an interest; having said this, with the Most Holy..."

FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS OF SABINA. JURISDICTION. On the days of February 28th and August 22nd, 1890. A SUMMARY OF THE CASE. The present contro-

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versy between the Eminent Bishop of Sabina, the Abbot Commendatory of Farfa, and the Monks of Saint Benedict, concerning the episcopal jurisdiction in the abbatial church of the monks, was discussed in a plenary session on February 28th of the year 1889, under the following question: "Does the Eminent Abbot-Bishop of Sabina have jurisdiction over the abbatial church of Saint Mary of Farfa?" And the Eminent Fathers, with a prudent response, deferred the matter, so that the monks might have the opportunity to prepare a fuller defense. A SYNOPTIC DISCUSSION. The Reverend Abbot, in defending his rights, asserts that, according to Pope Pius V, the monastery of Farfa...

[*Latin ed. p. 564*]

§64 SABINA. It is stated that, having been aggregated to the Cassinese Congregation by a Bull dated April 13, 1566, it was desired that both the Church and the Monastery of Saint Mary be exempted from the jurisdiction of the Abbot Commendatory. From this, it arose that, from that day forward, the Abbot Commendatory held jurisdiction over the territory and the faithful of the Diocese; while the Abbot Cloistered held exclusive jurisdiction over the Monastery and the Church. To this matter, Cardinal De Luca adds in *Disputationes*, 102, number 6, concerning jurisdiction, where he speaks of the Monastery of Subiaco. On March 30, 1767, before the Counts and Devout, and in accordance with Canon 13, title *De Gommendis Beneficiorum*, number 5, 28, the same is confirmed. Furthermore, the letter of Cardinal Barberini, at that time Abbot Commendatory, who wrote to the Abbot Cloistered, granting him the faculty of absolving from reserved cases, states: "in Ecclesia tua absolvendi" (to absolve in your Church); a protestation which was issued by the Abbot Cloistered on May 21, 1683, against Cardinal Barberini, because the Abbot Cloistered had dared to administer the Sacrament of Confirmation in the Church of Saint Mary. It should also be added that, in March of 1701, the Abbot Commendatory obtained permission from the Abbot Cloistered to administer a general Communion in the Church of Saint Mary, to implore divine assistance in the election of Pope Clement XI. Furthermore, it is stated that the Cassinese Congregation repeatedly sent an Abbot to thoroughly visit both the aforementioned Church and the Monastery; and that this occurred from the year 1855 to the year 1858. Therefore, it can be concluded with no doubt that the aforementioned Church of Saint Mary is exempt from any foreign jurisdiction. Moreover, it is asserted that the exemption granted to the Church of Saint Mary by Saint Pius V has not been revoked, even after the Bull of Gregory XVI. Since the Abbot Cloistered observes that the aforementioned Pope suppressed two Abbacies Commendatory, namely Farfa and Saint Savior Major, and that nothing has been changed concerning the Abbot Cloistered of Farfa; since the Cassinese Congregation, even until our time, has appointed an Abbot Cloistered; and since the same has been granted

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privileges in the decree of the Holy Congregation on May 21st...

[*Latin ed. p. 565*]

SABINA. On March 5th, 1887, it is stated that there is cause for joy, among which is the privilege of exemption from any foreign jurisdiction, as it had been granted by the Most Holy Pope Pius V. However, it is noted that Pope Gregory XVI, in the aforementioned Bull, having suppressed the two Abbeys mentioned, retained the title and name of the Abbot of Farfa, along with all abbatial rights, for the Bishop of Sabina; nevertheless, it is asserted that, beyond any doubt, the jurisdiction over the Church of Saint Mary could not be included among the abbatial rights, since this Church had been declared exempt by the Bull of Saint Pius V. Furthermore, it is observed that, although Commendatory Abbots occasionally conducted pastoral visits in the Church of Saint Mary, this occurred through abuse and contrary to verbal protests issued by the Cloistered Abbots. It is added that it is not the fault of the community, but rather a defect in unjust laws of suppression, if the Monastery of Farfa, although no longer occupied by monks from Monte Cassino, is nevertheless virtually possessed by the Congregation of Monte Cassino, which therefore cares for the worship of the Church with the utmost splendor and decorum. Finally, having considered all of these matters, in order to defend the exemption of the aforementioned Church, it invokes the memorable and peaceful observance of its possession for more than three centuries. And it states that this provides a title to make the world a better place, according to text *leg. 3§4ff. de aq. quoad*. To this, the Glossa in the chapter *super quibusdam* adds its agreement, as do *De Verborum signif.* Cardinal De Luca, *disc. 11 n. 6 de can.*, and *cap. S. Rota decis. 230 n. 6 coram Marco*. Having considered these matters both in fact and in law, the Cloistered Abbot declares that the petition of the Most Holy Order should be rejected from the threshold of judgment.

DEFENSE OF THE COMMENDATORY ABBOT. On the other hand, the Commendatory Abbot observes, first of all, that the aforementioned Bull of Gregory XVI, in force by the Apostolic Constitution *Studium* issued in the year 1841, divided the Diocese of Sabina.

[*Latin ed. p. 566*]

566 SABINEN. The ordinary jurisdiction of the Abbey of Farfa was extinguished, and therefore it was reduced to a simple abbey and permanently assigned to the suburban Bishop of Sabina, with these words: ”Therefore, we permanently designate and assign this Abbey of Farfa, thus reduced to the simple status of an abbey, to the Bishop for the time being of the suburb of Sabina, who shall bear the title of Abbot of Farfa, with the faculty also of investigating, pursuing, and vindicating all abbatial rights, except for the ordinary jurisdiction. Furthermore, it should be noted that, from that day

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forward, the following right is reserved to the suburban Bishop of Sabina, namely, that he shall have the right to nominate and present to all and singular benefices, the collation of which belonged to the Abbot of Farfa. Moreover, it is observed that, under the designation of a simple abbey, the abbatial church must also be included. And although the aforementioned Bull does not explicitly speak of this, it cannot be deduced that the church was subject to the jurisdiction of the Abbot Cluniac of the Monastery of Saint Benedict, who performed the sacred functions in said church. For every abbey, even if simple, must have a church from which it derives its title, and without which the mere title would not constitute an abbey, and therefore, in no way would an abbey exist. But in this case, the abbey was reduced to a simple status, and an entity was permanently established to which more rights were assigned, among which is the prominent right of vindicating all abbatial rights. Therefore, if the title of Abbot is granted to the Bishop of Sabina, for the time being, in a simple title, it naturally follows that the aforementioned Bishop, as Abbot, must enjoy jurisdiction over the church. And that this is the case is evident from the obligation imposed upon the Most Reverend Bishop of Sabina, by virtue of the aforementioned Bull, to pay eight and thirty scudi annually for the maintenance of the church, which was formerly a cathedral church, now a simple abbatial church. From these words, it is clear that the church remained permanently under the jurisdiction of the Abbot, and never was under the dependence of the monks of Saint Benedict; hence, the abbatial church is...

[*Latin ed. p. 567*]

SABINA. The number 567 is cited. However, it is urgently necessary to understand that, given the situation, it cannot be denied that the abbatial church does not belong to the Most Reverend Abbot as the current Bishop of Sabina, but rather to the monks of Saint Benedict, as is argued. Indeed, it is asked whether the privilege of exemption from the jurisdiction of the Ordinary, which, according to the sacred canons, regular canons enjoy, can be invoked. To this objection, the Most Reverend Abbot responds, noting that such a privilege, which he readily admits, cannot be invoked in this case; because the Church of Saint Mary of Farfa never belonged to the regular canons, nor after the ordinary jurisdiction of the Abbey of Nullius was abolished and extinguished. Furthermore, it is far from doubtful that this is evident from the spirit of the Apostolic letters which prescribe that the Church of Saint Mary of Farfa, which was formerly a cathedral, should become a simple abbatial church from that time. It is also useless to object that the decree of the Holy See, issued on March 28, 1887, by virtue of which the cloistered Abbot was promoted to that dignity with all rights, prerogatives, and privileges, which the Abbots of Monte Cassino enjoy and possess. For, since it is known that the Abbots of Monte Cassino, in addition to ordinary jurisdiction, have care and a diocese, of which the cloistered

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Abbots of Farfa are entirely deprived; in this matter, the Most Reverend Abbot observes that such a decree, by referring like to like, granted all rights, privileges, and prerogatives that did not pertain to the cloistered Abbot; and that the jurisdiction over the disputed church, which belonged to the Most Reverend Bishop of Sabina, could in no way be conferred upon the cloistered Abbot of Farfa. It is also to be rejected as untenable the assertion that, indeed, thirty-eight scudi are to be repaid by the Most Reverend Bishop of Sabina to the cloistered Abbot, in virtue of an agreement concluded in the year 1837 between the Most Reverend Lambruschini, then Abbot of Farfa, and the cloistered Abbot B. Tomasetti; since a subsequent Bulla, which begins with the words "Stu-..."

[*Latin ed. p. 568*]

568 SABINA. He had decreed that the aforementioned thirty-eight scudi should be paid for the maintenance of the Church. Finally, the Abbot of Sabina maintained that what was being objected to was entirely contrary to the truth, namely, that the Bishops of Sabina had never exercised jurisdiction over the aforementioned Church since the year 1841. To prove this, he presented certain documents, from which it is clear that the Bishops of Sabina, from the year 1854 until the present time, have regularly conducted pastoral visitations in the aforementioned Church. With these matters established, the Abbot of Sabina requested that the doubtful proposal be dismissed with an affirmative response. After considering both sides, the following question was to be resolved: Does the jurisdiction of the Abbot of Sabina extend to the Abbey Church of Farfa in this case? RESOLUTION. The Holy Congregation of Bishops and Regular Canons, after deliberation on August 22, 1890, decided to respond: Affirmative. FROM WHICH IT IS UNDERSTOOD: I. That the Abbey of Farfa, belonging to the Nullius Diocese, was, according to the Bull of the Most Holy Pope Gregory XVI, which begins: "Studium ad simplicem Abbatiae gradum reductam," permanently assigned to the Bishop of the suburbicarian Diocese of Sabina. II. Therefore, the Bishop of Sabina holds the title of Abbot of Farfa, and it belongs to him to inquire into, pursue, and claim all abbatial rights, except for ordinary jurisdiction. III. Among the rights granted to the aforementioned Bishop, it is to be included the right to nominate and present candidates for all and each benefice, the collation of which belonged to the Abbot of Farfa. IV. In virtue of the aforementioned Bull, the jurisdiction also extends to the Church of Saint Mary; and this is deduced from the obligation imposed upon him to pay thirty-eight scudi for the maintenance of this Church, which was formerly a cathedral but is now a simple abbatial church.

[*Latin ed. p. 569*]

SABINA. 569. There exists a distinction between the Cluniac Abbots of Monte Cassino and Farfa; and therefore, not all the rights and privileges en-

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joyed by the former pertain to the latter. FROM THE VATICAN, LETTERS. Letters from the Most Eminent Secretary of State, Cardinal John Simor, Archbishop of Strigonium, concerning mixed marriages in the Kingdom of Hungary. I. It was reported in the Letters of Your Eminence, dated May 20th of this year, that the Bishops of Hungary had convened in Budapest, in order to deliberate on the course of action they should take, following a circular letter sent by the Minister of Religious Affairs and Public Instruction, which requested opportune instructions from the Apostolic See; therefore, in the same letters, Your Eminence proposed two questions to the Hungarian Episcopate: I. Is it permissible for Catholic priests to obey the aforementioned circular letter, and to report to heterodox ministers the baptisms of infants born of mixed marriages? II. Is it permissible for the Bishops of Hungary to use the faculty granted to them by the Holy See to dispense from the impediment of mixed religion, according to the aforementioned circular letter? Regarding this serious matter, the Supreme Pontiff ordered that the aforementioned doubts be submitted to the judgment of the Particular Congregation of Eminent Cardinals, who, after careful consideration of both questions, responded negatively to the first; and concerning the second, they also gave a negative response, unless the following two conditions are met. The first is that both the Catholic and the non-Catholic party formally fulfill all those precautions which, by natural law and divine law, are required in mixed marriages.

[*Latin ed. p. 570*]

570 LETTERS: It is morally certain that Bishops are concerned with the sincerity of marriages and their proper fulfillment, notwithstanding the circular letters issued by the government. The Most Holy Pontiff approved and ratified the responses of the Fathers. Therefore, I earnestly and diligently signify to Your Eminence, whom I implore to obey, that he may inform our brothers in the episcopate about this matter. Furthermore, it seems opportune that these decisions of the Holy See be made known to the lower clergy through pastoral letters commonly issued by the Bishops, so that this clergy may be instructed clearly and may recognize how much they abhor the principles of Catholic doctrine concerning mixed marriages, along with the law promulgated in the year 1867, and the recently written circular letter; whose purpose and sentiments should be explained in particular. In the meantime, I express my heartfelt sentiments to Your Eminence, to whom I humbly offer my kisses. To Your Eminence, in Rome, on the 7th of July, 1890. Your most humble and devoted servant, M. CARD. RAMPOLLA.

II. Two letters have been returned to me, which Your Eminence wrote to me at the end of August and on the fifth of September, concerning the controversy regarding mixed marriages, which was stirred up by the circular letter of Count Csaky, the Prefect of Religious Affairs. Since it has become

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clear what the intentions of the government are and what it has proposed to address this very serious issue, the Supreme Pontiff ordered that it be submitted again for examination to the special Congregation of Cardinals. In this examination, it could not be overlooked that the principles of Catholic doctrine on this matter are such that, although some accommodation may be possible, what is proposed by the Hungarian government cannot be reconciled with them. But, as Your Eminence knows,

[*Latin ed. p. 571*]

LETTERS 57. The Holy See, while granting dispensations from impediments to mixed marriages for very serious reasons, requires certain necessary conditions, especially that all the children born from these marriages be educated in the Catholic religion. However, precautions must be taken to ensure that these conditions are fulfilled, precautions which moral law demands with certainty; and these precautions can never be waived, since they are founded in the natural and divine law. Therefore, when it was determined in a certain region that all children born from mixed marriages must be entirely educated in the schismatic religion, the Holy See denied dispensations. From this, it easily follows that the same Holy See cannot accept, nor tolerate, any proposed solution to the question of mixed marriages, which would not provide for the education of all those born from them in the Catholic religion, and would punish those who would hinder this education, thereby violating the freedom of parents and the rights of the Church. Furthermore, it follows that every possible effort must be made, as soon as circumstances permit, to repeal the law of 1868, since it is contrary to one of the most important conditions that the Church requires when granting dispensations for mixed marriages. It is also necessary to mention the circular letter of Minister Csaky, which not only pertains to the enforcement of this law, but also imposes the most serious obligation on the Catholic clergy to denounce to heterodox ministers the baptisms of children born from mixed marriages, so that none of those whom the aforementioned law would otherwise consign to the heretical communion may escape being educated in heresy. However, this inconvenience is not averted by the proposed change from the government, for although it somewhat alleviates the burden imposed by the letter of Count Csaky, it does not alter the force of its purpose. Indeed, whether it is the parish priest, or a heterodox minister, or a civil magistrate, if they denounce the baptism, they always contribute to the achievement of the purpose for which the circular letter is intended, with this one difference, that in the first case they act directly, and in the other, through an intermediary. Therefore, the aforementioned Council of Cardinals, after careful deliberation, was unanimous in this opinion: "The Holy See cannot in any way accept a solution

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to the problem of schism that was proposed by Count de Szapary."

[*Latin ed. p. 572*]

572 This sentiment has been approved and sanctioned by the Supreme Pontiff. However, the Holy See, desiring with all its strength to avoid, as far as possible, that there be any conflict in this kingdom for the sake of religion, would be grateful if Your Eminence, if, by means of prudent deliberation, a suitable means can be found to resolve this matter in such a way that both parties may be satisfied, while preserving the fundamental principles of the Catholic faith, were to inquire whether it might be possible for the Catholic clergy to transmit to the civil authorities, through duly prepared indices, accurate records of all baptisms, marriages, and deaths, provided, of course, that it may be possible to foster confidence prudently, so that the government will not use these documents to the detriment of religion. Furthermore, the Holy See has no doubt of the desire for reconciliation, which seems to motivate the Hungarian Government, and it trusts that Your Eminence will, with wisdom and zeal for the public good and the preservation of tranquility, be able to cooperate effectively, so that, by mutual agreement, the matter may be settled, which greatly troubles the consciences of Catholics. Finally, I cannot but inform Your Eminence that it has caused great distress to the Supreme Pontiff to learn of what the Minister of Religious Affairs has affirmed, namely, that several bishops, for the past four years, have permitted the priests of their dioceses to transmit baptismal certificates, which are the subject of this dispute, to heterodox officials, and that these same officials, by that noble man himself, were requested to do so before he sent out the circular letter, and that they responded that nothing would prevent the transmission of these documents by all the parish priests of the kingdom. It is barely necessary to point out that the Holy See has vehemently disapproved of this method of proceeding. Indeed, it is necessary to inform Your Eminence of the mind of the Holy Father, so that you may have the opportunity to explain to the aforementioned prelates, and to the Government itself, if it should insist on upholding the fairness of its order, that they should follow the example and authority of the Holy See. In the meantime, with the utmost humility and reverence, I kiss the hand of Your Eminence.

To Your Eminence.

Rome, 26 September 1890.

Your most humble and devoted servant,

M. CARD. RAMPOLLA,

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protonotarius.

[*Latin ed. p. 573*]

57a FROM THE SACRED CONGREGATION FOR RITES, A DECREE CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, FATHER MODESTINO OF JESUS AND MARY, A PRIEST OF THE ORDER OF MINORITES OF STRICT OBSERVANCE OF SAINT PETER OF ALCANTARA, OF THE NEAPOLITAN PROVINCE.

REGARDING THE DOUBT: WHETHER A COMMISSION SHOULD BE APPOINTED TO ASCERTAIN THE EFFECT OF WHICH WE SPEAK?

The most excellent fame, by which the Servant of God, Modestino of Jesus and Mary, a Priest of the Order of Alcantarians, shone during his life, and which increased and spread greatly after his death, which occurred in Naples in the year 1854, has reached such a point that it has surpassed the ordinary reputation, and the virtues and miracles of the aforementioned Servant of God have become known in the ecclesiastical court of Naples.

After the proper investigations were completed and presented to the Sacred Congregation for Rites, the Most Holy Pope Leo XIII granted that the doubt regarding the appointment of a commission to ascertain the effect of which we speak, could be considered in the ordinary meetings of the aforementioned Sacred Congregation, without the intervention or vote of the Consultors.

Therefore, the following matter was presented to the Cardinal Prefect of the aforementioned Sacred Congregation, in place of and by order of the Eminent and Reverend Lord Cardinal Thomas Zigliara, the Relator of the Cause, by the Reverend Father Father Simpliciano at Nativity, a Priest of the Order of Saint Peter of Alcantara, the Postulator, and with the Postulator's letters from several Eminences, Cardinals of the Most Holy Roman Church, and other Reverend Prelates and men, both ecclesiastical and civil, of great distinction, and was proposed for discussion in the ordinary meeting of the Sacred Congregation for Rites, held on the indicated day at the Vatican. The following doubt, which is to be considered, is: Whether, in this case, a commission should be appointed to ascertain the effect of which we speak? And the Sacred Congregation, after deliberation, and with the commission to be appointed, should consider:

[*Latin ed. p. 574*]

574 FROM THE SACRED CONGREGATION OF RITES: The aforementioned Congregation, having carefully considered all matters, and having heard both oral and written testimony, decided that, if it seemed opportune, a letter should be written to the Reverend Father Augustine, and that the matter should be approved by the Most Holy Cardinal Caprara of the Holy Office. The date for the presentation of the documents was

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set for February 14, 1891. After all of these matters had been faithfully reported to the Most Holy Pope Leo XIII, His Holiness, recognizing the written document of the Sacred Congregation, affixed his own signature to the commission for the introduction of the cause of beatification of the Venerable Servant of God, Sister Modestina of Jesus and Mary, on March 11th of the same year. L. C. CARDINAL ALOISI-MASELLA, SECRETARY. S. VINCENT NUSSI, SECRETARY. SACRED CONGREGATION. DECREE concerning the beatification and canonization of the Venerable Servant of God, Caietan Errico, founder of the Congregation of the Sacred Hearts. Whereas, on the fourth day before the Kalends of May of the preceding year, the Most Holy Pope Leo XIII had already graciously permitted that the extraordinary process concerning the renowned sanctity of life, virtues, and miracles of the Venerable Servant of God, Caietan Errico, might be conducted in the Congregation of Sacred Rites without the intervention and vote of the Consultors; and whereas, the Reverend Father Angelo, promoter of the cause of this priest for the Congregation of the Sacred Hearts of Mary, presented the case, and the Most Reverend Cardinal Aloisius Serafini, Bishop of Sabina, having examined the case, proposed the following question to be discussed in the ordinary meetings of the Congregation of Sacred Rites, signed on the following day: "Is the Apostolic Process, constructed in Naples (through the cases of virtues and miracles, and concerning the sanctity of life), relevant to the Vatican, regarding the type of sanctity of life for which the Venerable Servant of God is being considered?" This was presented to the Most Reverend Fathers of the Sacred Congregation.

[*Latin ed. p. 575*]

From the Sacred Congregation for the Preservation of Rituals, after mature deliberation and having heard the voice and written testimony of the Reverend Father Augustine Caprara, Promoter of the Holy Faith, it was decided to respond: "Affirmative." On February 14, 1891. These matters were faithfully reported to Pope Leo XIII by the undersigned Secretary. His Holiness approved and confirmed the decree of the Sacred Congregation on March 11 of the same year. Cardinal Aloisi-Masella, Prefect. Reverend Father Vincent Nuss, Secretary.

FROM THE SACRED CONGREGATION FOR INDULGENCES:

Most Blessed Father, John Ponzi, a Roman priest, humbly prostrates himself before Your Holiness and implores that Your Holiness would deign to grant some Indulgence to all the Christian faithful who shall recite the following prayer in honor of Saint John the Apostle and Evangelist.

PRAYER:

O glorious Apostle, who, through your virginal purity, were so beloved

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by Jesus, that you merited to rest your head upon His divine breast, and to be left in His place as a son to His most holy Mother; I beseech you to kindle in me the most fervent love for Jesus, and for Mary. Obtain for me, I pray you, from the Lord that I, with a heart free from worldly affections, may be made worthy to always be united to Jesus, as a faithful disciple, and to Mary, as a devoted son, and to be eternally in Heaven. Here on earth, in rhyme: Thus be it.

[*Latin ed. p. 576*]

S76 FROM THE HOLY CONGREGATION OF INDULGENCES. His Most Holy Lord Pope Leo XIII, on March 21, 1891, after having heard the aforementioned Secretary in a meeting of the Holy Congregation concerning Indulgences and Sacred Relics, benignly granted to all the Christian faithful, of both sexes, who, with at least contrition of heart, and with devout recitation, offer the aforementioned prayer, an Indulgence, applicable also to the deceased, of one hundred days, once a day. This [grant] is valid forever, without any brief [papal bull]. Contrary things notwithstanding. Given in Rome, from the Secretariat of the aforementioned Holy Congregation, on March 21, 1891. I. CARD. D'ANNIBALE, Prefect. ARCHIEP. NICOP. (Latin Version) O, most illustrious Apostle, who, through virginal purity, were united to Jesus in Cher, so that, as it were, you might recline your head upon Him, and that your fingers, in place of your own, might touch the Most Blessed Mother, as if they were those of a son; grant me, I implore you, that I may embrace Jesus and Mary with the most ardent charity. I beg you, through your prayer to God, that I also, cleansed from all earthly affections, may be a faithful disciple of Jesus, a lover of Mary, and may always remain steadfast on earth, so that I may be united with them forever in Heaven. Amen.

[*Latin ed. p. 577*]

FROM THE SACRED CONGREGATION OF RITES IN BURDIGALA. Decree concerning the beatification and canonization of the venerable Servant of God, Joan of Lestonnac, foundress of the Order of the Daughters of the Most Blessed Virgin. ON THE QUESTION: Whether it is established that she possessed the Theological Virtues of Faith, Hope, and Charity, in God and towards her neighbor, as well as the Cardinal Virtues of Prudence, Justice, Fortitude, and Temperance, and their associated qualities, in a heroic degree, in every circumstance and in effect, concerning that which is being considered? That supernatural virtue, the living water which Jesus Christ promised to the Samaritan woman sitting at the well, appears most wondrously in the condition of women brought to a new dignity; and especially in that noble company of women, who, drawing more abundantly from this source, through heroic deeds, benefactions, and institu-

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tions, have become, as it were, the fountains of this water, according to the very promise of Christ, and thus have irrigated and fertilized the Lord's vineyard with great admiration and veneration. It is fitting to add the glorious number of these to the name of the venerable Joan of Lestonnac. She was born in Burdigala, of a noble family, in the year 1566. As a young woman, devoted to prayer, she was strengthened by the spirit and zeal for promoting the Catholic faith; then, as a wife and mother, she fulfilled all her duties towards her husband and children with excellence, directing all her energies according to the words of the Gospel, so that she might please God in all things. Her virtues shone forth even more clearly after the death of her husband, during a space of more than forty years. First, she eagerly followed the footsteps of Christ, dedicating herself entirely to the study of divine matters and to helping her neighbors; then, with prompt care for her household, she came to Toulouse, where she was a shining example to the sacred virgins of Saint Bernard, until ill health compelled her to return to Burdigala. Surely, it was through this trial that God called his handmaid to greater things, so that she might cultivate her talents and graces with greater fruit. For, filled with the fullness of the living water that springs forth into eternal life, as is evident from the Acts, Volume XXIII, page 274, 37.

[*Latin ed. p. 578*]

578 BURDIGALEN. Those who knew him testified to his love of God, and they observed that he was concerned for young women, whether they were misled by imprudent teachers or held Calvinist opinions, and that he sought to form them with sound discipline and the doctrine of the Catholic faith, so that they might "grow in grace and knowledge of our Lord Jesus Christ." He achieved this with great success, even in a difficult time, by establishing an order called the Daughters of the Blessed Virgin Mary. The praises of this order were not only due to the wisdom and dignity of its leaders, but also to the Supreme Pontiff Paul V, who approved it through Apostolic letters, signed with a bull, on April 7, 1607. In this new family, of which the Venerable Servant of God was the supreme director, he was able to demonstrate his prudence and solicitude, but also his patience and gentleness, which drew the hearts of the members closer to him. Although, with the passage of time, he withdrew from active service, he nevertheless supported the order with his counsel, and he saw it flourish and spread widely under regular discipline, even until his death. To this, he contributed greatly through the widespread fragrance of his virtues, by which he truly presented himself as a hero, especially through his seraphic charity, his zeal for reclaiming as many as possible from heresy, his eagerness to promote the glory of God, even to the point of shedding his blood, his contempt for worldly things, his constant prayer, and his frequent bodily afflictions, so that it could truly be said that he lived the life of Christ

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in all his actions and words, and that he offered to God the fragrance of his goodness. The excellence of these virtues, which were enhanced by remarkable spiritual gifts, increased and grew to the very end of his life, until the time when the Venerable Servant of God, weakened by a brief illness, peacefully departed to the Lord, invoking the sweet names of Jesus, Mary, and Joseph, on the feast of the Purification of the Blessed Virgin, in the year 1640, at the age of eighty-four. The fame of his virtues quickly spread from Sabandja Su to Spain and Italy, and even to the regions of America, and was illustrated by many miracles, which were attributed to the intercession of the just man, both while he was alive and after his death. Nevertheless, in accordance with the norms of the time, the investigation into his life was not undertaken until this century; and after all matters were completed, and after the preliminary procedures required by the Apostolic Constitutions had been carried out, an examination of his virtues was instituted. Thus, three sessions were held for this purpose; the first, on April 7, 1858, in the buildings...

[*Latin ed. p. 579*]

BURDIGALA. 579 meters above sea level. Cardinal Patrizi, the Promoter of the Cause: According to the records, on the fourteenth day before December in the year 1884, and after the General Congregations held there before His Holiness Pope Leo XIII on the fifteenth day before July of the same year, in which the Reverend Cardinal Lucido Maria Parocchi, Bishop of Albano Laziale, the Promoter of the Cause, proposed the following question: Whether it is established that the Venerable Servant of God, Joan of Lestonnac, possessed the Theological Virtues of Faith, Hope, and Charity in God and in her neighbor, as well as the Cardinal Virtues of Prudence, Justice, Temperance, and Fortitude, and their related qualities, in a heroic degree, in the case and with respect to the matters under consideration? The Reverend Cardinals and Fathers gave their votes. However, the Most Holy Pope deferred giving his judgment, advising that, considering the important matters at stake, the opinion of the Holy Spirit should be sought. Today, after the Most Reverend Patriarch Joseph had offered the sacrifice of the Mass, and having entered the noble Vatican hall and seated himself on the Pontifical throne, he summoned the Reverend Cardinal Caietan Aloisi-Masella, Prefect of the Sacred Congregation of Rites, in place of and in the stead of the Reverend Cardinal Lucido Maria Parocchi, Bishop of Albano Laziale, the Promoter of the Cause, together with the Reverend Father Augustine Caprara, Promoter of the Faith, and myself, the undersigned Secretary, and, with them present, he declared: It is established that the Venerable Servant of God, Joan of Lestonnac, possessed the Theological Virtues of Faith, Hope, and Charity in God and in her neighbor, as well as the Cardinal Virtues of Prudence, Justice, Temperance, and Fortitude, and their related qualities, in a heroic degree, in the case and with respect to the mat-

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ters under consideration. This Decree is to be made public, and it is to be referred to the Acts of the Sacred Congregation of Rites, on the fourteenth day before April in the year 1891. C. CARDINAL ALOISI-MASELLAS. R. C. Prefect. L. S. VINCENTIUS NUSSI, Secretary. Synopsis of her Life. In the illustrious city of Burdigala, in Gaul, born in the year five hundred and seventy-nine above the two thousandth, she was born to generous parents, Richard de Lestonnac and Joan Deyquem, the Venerable Servant of God, the eldest of four children.

[*Latin ed. p. 580*]

580 BURDIGALA. Endowed with exceptional qualities, both of body and mind, she readily surpassed others. She resembled her parents in nobility and gravity of manner, but not in religion; for while her father diligently studied the true Catholic faith, her mother followed the errors of Calvinism. From her earliest years, contention arose between them; for, as history recounts, her mother attempted to have her daughter baptized in the temple... but her husband, the Lord, opposed this, and, zealous for his own religion, had her baptized in the church. Nevertheless, the heretical mother, tenacious in her beliefs, as the girl grew older, employed every means to draw her to her side, through exhortations, flattery, deceit, and even example, and in order to more easily instill her mind with pestilent doctrines, she took her to gatherings of Calvinists. Fortunately, the obstinate woman's efforts were thwarted by the diligent help of her sister, herself infected with the same flaw, who, perhaps surrounded by the snares of her mother and aunt, had led Joan astray. However, her father and uncle, Michael de Montaigne, promptly offered her a remedy, so that she might open the eyes of her mind to the truth, and reject the false delusions of the heretics. It was also opportune and beneficial that the help of Brother Francis of the Order of the Servants of God arrived, for, having been excellently instructed by the Fathers of the Society of Jesus, and taught to vigorously refute the arguments of heretics, he reported to his sister everything that he had learned, and she, being of noble spirit, of impeccable morals, and comparable to all virtue, could not long resist, but followed the grace that preceded her, rejected the teachings of her mother, and firmly and diligently embraced the Catholic truth, which she had already clearly recognized and understood, so that she caused increasing annoyance and offense to her mother. When the young woman, having turned away from her former ways, began to strive to bring her back to the true religion, she employed all the persuasions, arguments, and prayers that she could, but the tenacious spirit of the woman remained hardened, and, although she fruitlessly exercised her zeal for her daughter, it served to increase her merit in patience and piety. Joan bore her parents' harshness with the utmost gentleness, endured their irritability, tolerated their insulting anger without complaint, and never neglected her obedience and filial duties. Meanwhile, the knowledge of

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the truth that she had acquired did not remain sterile or unfruitful, but continued to grow; she strove to live and act in accordance with the holy doctrines that her sister professed, and she observed the laws of modesty so carefully that she was not guilty of levity.

[*Latin ed. p. 581*]

BORDEAUX. 581. She never incurred the censure of anyone, nor did she fail to please men, not only because of her charm and the quickness of her wit and eloquence, but even more so because of her devotion to God. She especially preferred prayer, solitude, and silence to worldly gatherings, and, with a particular devotion, she honored the Virgin Mary, and she chose Saint John the Apostle, whom Christ commanded to be as a son to her, as her patron. If she had lived a life entirely dedicated to God's service, her talents and studies would certainly have led her to embrace some religious institution. But the misfortunes of the times were such that she was forced to read heretical writings, which spread far and wide, and which she considered so dangerous that she could not remain indifferent. Therefore, when she was seventeen years old, and she heard that her parents intended to arrange a marriage for her, she replied obediently: that she would remain unmarried, and that she would dedicate her life to exercises of piety, because she was too inexperienced to manage a household properly and to fulfill the duties of marriage; but that she would do whatever they commanded, because she considered the voice of her parents to be the messenger and interpreter of God's will. Thus, she was given in marriage to the noble young man, Gaston de Montferrand, whose integrity was as commendable as his devotion to true religion. The lady of Bordeaux lived very closely with her husband, and she gained so much of his trust and esteem that she was compelled to undertake all the domestic duties that he entrusted to her. She had seven children from this marriage, but she was soon left a widow, as three of them died prematurely, passing to a happier life. She diligently instructed the remaining children in virtue and piety, and she showed them by her example everything that she taught. She ruled her servants and maids so that she seemed more a mother and mistress than a lady. She gave a brilliant example of gravity and modesty to noblewomen. She avoided frivolous conversations, and she rarely spoke with outsiders; and the wealth that flowed through her hands was not spent on luxury and pleasure, but was devoted to helping the poor, and she comforted the sick not only with assistance, but also with her presence, and with the most comforting words. She spent the time that remained free from cares in prayer, and in other pious exercises. In this way, she fulfilled all the duties of her station so perfectly that she seemed to have embodied the perfect image of a virtuous woman, who fears God, as described in

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Proverbs.

[*Latin ed. p. 582*]

IN BORDEAUX. After a marriage lasting twenty years, marked by joy and harmony, she received a grievous wound through the death of her husband. She, as it seemed, shone brightly; mindful of the exhortation of Paul, who urges widows to hope in God and to persevere in prayers and supplications, both day and night, she sought comfort in God. Therefore, she devoted herself more diligently to prayer, abstained more carefully from worldly distractions, frequently reconciled her conscience through sacred confession, and attended the holy Synaxis, and she poured forth more abundant alms to the poor, and visited the sick, so that she might minister to them. In the meantime, she diligently attended to the education of her children, and she entrusted two older women, devoted to God, to the care of her children, after having greeted them with angelic salutations, as if they were placed in a safe haven. Six years after the death of her husband, when she saw her son, having completed his studies, was of sufficient age and prudence to manage the domestic affairs and to care for his sister, she again felt the old desire to embrace the monastic life stirring within her. The obstacles that had previously made a dangerous entrance into the monastery thirty years earlier had been removed; for, as one of her biographers says, "All things proceeded according to her desires, for about three years after her husband's death, after the wars against the religion had ceased, and after Henry IV, having been received back into communion with the Church by Pope Clement VIII, had restored peace and, along with it, his ancient nobility." Especially after hearing from a certain member of the Franciscan order, who was devoted to God and averse to worldly things, she decided to devote herself entirely to God. She communicated her intention the following day, and when she learned that it was approved by him, she opened her heart to her confessor, and with his consent, she resolved to carry out her plan. Desiring a more austere life, she sought a monastery of holy women, whose institution and discipline were the most rigorous; and having heard that the monastery of virgins of Saint Bernard in Toulouse was flourishing greatly, and having become more certain of their rules, she spoke to the Provincial, who happened to be in Bordeaux at that time, and, with heartfelt prayers, she asked him to recommend her to that order. When the wise man, after careful consideration, perceived that a divine vocation moved the Servant of God, he readily offered his assistance, and he was eager to help her to be received as soon as possible into that community of virgins. With everything properly prepared, the Venerable Widow finally communicated her intention to her son.

[*Latin ed. p. 583*]

BURDIGALA. Ibi, cum ad finem venit, commendavit se sorori, quae,

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propter aetatem suam, curam eius gerere poterat. Ostendit, quantum id consilium fuisset opportunum, et quod ipsa, nec operibus suis, nec consilio aliorum, indigeret; et praestabat prudentia talis, ut familia optima praeiret; nam, in presenti, auxilium caelestis Patris numquam illis defuturum esset. Filius, obstupuit, rogans ne mater relinquat; etiam filiola, quam fugiens celare conabatur, occurrit, instans ut ab initiis desistat; sed V. D. Famula, quae, instar S. Pauli, "pietatem in filios pietate in Deum superavit, nesciebat se esse matrem, ut Christi ancillam probaret." Sic, monasterium ingressa, facile monialibus cæteris, et veteribus etiam, pietatis fervorem et monasticæ disciplinae observantiam praeëgit: omnes illam, quam exemplum imitari debent, suscipiebant, et miranda gratulatione gaudebant, quod tam egregiam sociam adeptae essent. Brevis fuit gaudium illud; nam, sive ob insuetum vitae genus, sive quod Deus ancillam suam ad maiora agenda destinabat, morbo implicata, gravissima valetudine laborabat; medici autem, dubitam non putabant, nisi quamprimum claustra relinqueret, et ad vitam mundanam recederet. Hoc nuntio audito, tristari coepit Dei Famula; sed, coelesti visione reiecta, qua ad novum ordinem instituendum divinitus data videbatur, acquiescit, et Antistitae suadenti, ut ad pristinum vivendi genus redderetur, docilis obtemperavit. Mirabile est! vix vestes monasticas deposuit, morbo se liberam sensit, et amissum valitudinis florem statim recuperavit. Ita, post sex menses ex quo Burdigala profecta fuerat, illuc regressa est, exeunte anno 1603, ingenti cum gaudio cognatorum, amicorumque, et filiorum, praesertim, qui eam sibi insperato redditam gestiebant. Mutuis benevolentiae et comitatis officiis persolutis, V. D. mulier iterum cogitavit a civitatis strepitu recedere, et solitudinem petere. At, prius munibus materna pietatis perfungi voluit erga filiam, quam nupsit Dynastae d'Arpaillant, et ipsam ad domum viri, quae in Petricoris erat, deduxit. Salutare fuit illud iter adolescentibus quibusdam nobilibus, quae in hæresim versabantur; eas enim V. D. Famula, cum novisset, ad catholicam veritatem revocavit. Relicta apud generum, filia, in castrum Landiras, ubi filius degebat, perrexit; brevitertamen ibi morata est: nam, solitariae quietis desiderio illecta, secessionem quaesivit, et in vicum venit, cui no-

[*Latin ed. p. 584*]

584 BURDIGALA. At La Mothe, where she might more readily devote herself to the study of divine matters and pious works. No one in that place, whether poor or sick, failed to experience the benefit of her help. Above all, concerned for young girls, inexperienced and exposed to the danger of losing their faith and purity, she sought to convert them to the service of God, and she was establishing, as it were, a school of virtue and a refuge, where they might learn Christian instruction, the duties of religion, and sound moral discipline. Considering this, the Lady did not wish to undertake anything without first hearing the opinion of prudent men. Therefore,

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upon returning to Burdigala, she presented her ideas to two Fathers of the Society of Jesus, the Marqués de Laudet and Mesnage; and they, having heard what the Lady intended, and considering it premature, judged that it was best to postpone the matter until God made His will more clearly known. In the meantime, they advised her to persevere in prayer and works of charity, which the Handmaid of God followed so diligently, striving so earnestly for perfection and being helpful to those in need, caring for the sick, feeding the poor, visiting those in prison, so that some young girls, deeply moved by her most virtuous life, offered her their services, readily agreeing to be guided and instructed in prudence and moderation. These were the seeds from which a new Congregation was to be born. At the very time that the Lady was gathering these young girls around her and inspiring them with fervent words, so that they might, united in purpose, strive for their own salvation and for the common good, it happened that two very distinguished men of the Society of Jesus, the Fathers de Bordes and Raymond, were moved by her zeal to establish a new Congregation. To make this more clearly understood, it seems necessary to recount the matter in greater detail. These two priests had long observed the grievous misfortunes of youth, arising partly from licentiousness and partly from false doctrines, and they believed that there was no remedy for this ruin of souls except through the proper education of young people. As for boys, they saw that their associates were adequately governed by colleges, gymnasiums, and academies; but they lamented that young women were left without similar guidance, being exposed to inexperienced, or, worse still, Calvinist teachers. While praying to God to remedy these evils, they were separately illuminated by divine light.

[*Latin ed. p. 585*]

Bordeaux. In the year 585, certain devout individuals perceived the need for the establishment of a community of women, which would reflect the spirit of the Society of Jesus and provide a beneficial environment for young women who were preparing to enter that Society. Since this community was to be founded under the guidance of the Divine Founder, it was fitting that it should be named after His most holy Mother. After consulting with each other and receiving divine inspiration, two prominent men sought out certain women of exceptional piety and virtue, asking them whether they would be willing to undertake the task of founding this new community. When these women initially declined, the men prayed earnestly to God, asking Him to show them whether He desired them to accept this important mission. Not long afterward, the name "Joan" and her reputation for virtue reached them; and recognizing her exceptional qualities, they understood that she had been chosen by God for this purpose. Through the intercession of a virtuous woman, they approached Joan and explained to her the plans they had conceived, the insights they had received, and the

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overall purpose of the work that needed to be accomplished. Nothing could have been more pleasing to the Handmaid of God than the task that was proposed to her; however, because of her humility and her reluctance to accept the honor and responsibility of being the foundress, she requested time to consider the matter. After receiving further enlightenment from the Divine Will and after a heavenly vision revealed to a devout priest that Joan had been chosen by God to lead the new community, she, with confidence in divine assistance, accepted the responsibility and declared her readiness to carry out the instructions, provided that Father de Bordes would guide and advise her with his wisdom and prudence, and would instruct her in the proper way to carry out each task. With these arrangements in place, Joan began to gather companions for her work, some of whom she had already known, while others were introduced to her by Father de Bordes. When all the women had expressed their willingness to embrace this new way of life, they requested that the religious man draw up the rules that they would follow. He did not refuse this request; but he advised them to devote themselves diligently to the pursuit of Christian perfection and to cultivate their spiritual lives through the exercises prescribed by St. Ignatius. Later, he composed certain preliminary rules, which were to be followed and further developed, and which would serve as the foundation for the constitutions of the community of women, modeled after the Society of Jesus.

[*Latin ed. p. 586*]

586 BURDIGALENSI. While she possessed the power to do so, she adapted [her plans]. Furthermore, she approached Cardinal de Sourdis, who at that time presided over the Church of Burdigala, and extolled the exceptional virtues of the Venerable Joanna with many praises, and explained the entire purpose of the proposed undertaking. She requested the Archbishop himself to speak with the Handmaid of God, who, having come from afar and been received with human kindness, implored him to support her endeavors. However, after considering the matter and perceiving the gravity of the undertaking, the Archbishop left the written pages, in which the form of the new Institute and the names of the members were clearly explained. The noble woman's proposal was highly commended, and he could not help but marvel at the intelligence, modesty, and charity that were equal to the magnitude of the undertaking; nevertheless, he did not wish to decide anything, nor did he propose that the knowledge of the undertaking be brought before the episcopal council. Since true appearances often deceive even prudent men, those who had been summoned to the Archbishop's council deemed it more fitting for the Venerable Joanna to devote her efforts to restoring the regular discipline among the nuns of the Order of Saint Ursula, which had been almost completely undermined by the wickedness of the times,

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rather than to establish a new order of sisters, who would not be so well suited to instructing young girls. As a result, when the Venerable Joanna spoke with the Archbishop, his mind remained entirely unchanged. She urged the Servant of God to undertake the work that was more pleasing to his advisors; but the Venerable woman, having perceived clear signs of his unwillingness, obediently, yet vehemently, refuted the arguments presented by the Archbishop. Since neither could persuade the other, the V. Handmaid of God returned to her own affairs, hoping that God, who was the author of the undertaking, would resolve the difficulties and lead the matter to a happy conclusion. The Venerable woman's confidence was not misplaced: although the undertaking still had to be proven through a longer struggle, things nevertheless seemed to be moving in a better direction. For, although she saw the Archbishop to be less inclined to her plans, she was not deterred, and she sought every possible divine and human assistance. She began, together with a group of sisters, to offer prayers and supplications, increasing her fasts and almsgiving, in order to obtain divine favor. She also enlisted the support of wise and illustrious men who were influential with the Archbishop, so that they might present the matter more favorably, and that the undertaking might receive a propitious outcome. And so it happened.

[*Latin ed. p. 587*]

BORDEAUX. In the year 1587, a woman presented herself, and her purpose was praised; and a new society was strengthened by her approval. She promised, indeed, to bestow whatever she could, both with the Supreme Pontiff and with the prelates of the Roman Curia, so that the approval she had granted might be confirmed by Apostolic authority. Scarcely had she uttered these words when she felt a joy that she had never experienced before; and she offered the greatest thanks to the Bishop, and, having returned to her sisters, she announced to them the divine favor to be expected. Without any delay, a priest, pious and prudent, named Moysset, was chosen to act as the Archbishop of Bordeaux's representative and agent with the Apostolic See; and, having received letters of commendation, he was sent to Rome, addressed to Pope Paul V, who at that time was governing the Church, and to certain Cardinals and other most distinguished men. When he arrived in the City, and having presented the letters, he explained the purpose of his mission to Cardinals Bellarmine and Baronio, and both readily agreed to assist in carrying out the matter. For, recognizing the benefits conferred upon the Church by the Society of Jesus, and seeing that the purpose of this Institute was perfectly suited to favor its aims, they did not hesitate to support it. The matter was presented to the Pope in such a way that it perfectly harmonized with the intentions of the Venerable Woman and the work she had begun. The Pope received the representative from Bordeaux with the utmost kindness; he listened attentively to the ex-

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planation of the nature, purpose, and institutions of the new Congregation, and, after having presented the case to the Sacred Congregation of Bishops and Regular Canons, he finally issued Apostolic letters, bearing his seal, by which he solemnly approved the new Order of the Daughters of the Blessed Virgin Mary on the seventh of the Ides of April in the year 1607. Following the merits and praises of the Venerable Woman's council and institute, and foreseeing the many good things that would result for the Church, he pronounced these memorable words, as he dismissed the priest Moysset, who was thanking him and about to depart from the City: "I shall die happily," he said, "now that the Order has been confirmed, having been established for the salvation of souls, and for the preservation and cultivation of faith, morals, and purity." While these things were happening in Rome, the news of the Pope's approval was already reaching the Venerable Woman in Bordeaux. For Saint John the Evangelist appeared to her in a clear vision and assured her of the pontifical approval. The vision, sent by divine inspiration, was not a mere dream or the trickery of fantasy, and the documents brought back by the messenger confirmed this.

[*Latin ed. p. 588*]

588 BURDIGALA. They demonstrated [their suitability]. When those women arrived at Burdigala and had completed the preliminary stages of their mission, they began to request the Divine Servant Bishop to grant them the execution of their vows, so that he might bestow upon them and their companions the monastic habit. He agreed, and assigned them a house within the enclosure of Saint John, which had been dedicated to the Holy Spirit. Immediately, the building was adapted for monastic life, and it took on the appearance of a cloister. There, the Divine Servant and her companions withdrew, bidding farewell to the world; however, they continued to wear secular clothing for some time, so that they might experience the dangers of the monastic life that they were about to embrace. The sisters obeyed the Divine Servant as their Bishop, and all were eager to hasten the time, imitating her zeal, so that they might be clothed in the sacred garments. It was truly a wise decision that this new trial of their vocation should take place; for some of the young women who had first joined the Divine Servant had departed at the urging of their parents, and others had taken their place. After a sufficient time had passed, and all had been instructed and trained so that they were prepared to live the monastic life, they again petitioned the Archbishop to grant them no further delay and to bestow upon them the desired habits. He set the day for the first of May in the year 1608. On that day, with solemn ceremony and sacred rites, the event took place, and it was remarkable that, while other young women were given the white habit by the Bishop, the Divine Servant received the black habit, which signified that she was to be held in the highest regard by the Prelate, and that all others should obey her! Indeed, the final test

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had not yet arrived; for, according to the Pontiff's decree, the novices were to undergo a final period of instruction in the new monastery, so that they might then pronounce their religious vows. During this time, which they spent with great merit, they eagerly awaited the day when they would be deemed worthy to be united in marriage to the Lamb of Heaven. But the Archbishop, returning to his original plan, decided to add these women to the Ursulines, and, expecting nothing of the kind, he refused to accept their vows. This sudden blow struck the Divine Servant deeply, but she did not lose heart. Although she had unsuccessfully pleaded and reasoned with the Prelate to complete this undertaking, she turned to God, praying that He Himself, in whose hands are the hearts of men, would soften the Bishop's heart and remove this untimely obstacle. God heard the prayer of His handmaid, and He consoled her wonderfully. For, while the Cardinal de Sourdis, with a firm resolve, had departed for Burdigala, and...

[*Latin ed. p. 589*]

BORDEAUX. In the year 1610, having intended to proceed to the town of Sermont, she was suddenly seized by a change of sentiment, as if prompted by a warning from the Blessed Virgin, and she reconsidered her plans; she visited the monastery where the Servant of God resided, and, encountering her and her companions, she spoke to them as follows: "Indeed, I am about to accept your vows, pious sisters, for it is no longer permissible to resist the divine will, and I understand that this is the way in which I can best satisfy your desires." Having found the sisters filled with joy and ready to obey without delay, she postponed the matter until the following day, which was the feast of the Immaculate Conception of the Blessed Virgin. On that auspicious day, which marked the beginning of the Order of the Daughters of the Blessed Virgin Mary, the Archbishop, with a black veil covering his head, received the vows pronounced by them in the name of the Church. Thus, God, most merciful, bestowed the desired grace upon the Venerable woman; and thus, after various trials, the Congregation was finally established under the patronage of the Virgin. Just as young and vigorous trees, carefully cultivated by a diligent farmer, produce the finest fruits, so too, the new Order, flourishing with the vigor of its recent establishment and guided by a most wise director, has yielded excellent fruits, both in the internal virtues, which are diligently practiced by the sisters, and in the public benefits, which are conferred upon society through the education of the students. Therefore, the pious virgins, who had first joined the Venerable woman, and who had been separated by the will of their parents, returned to her again, and increased the religious family. As the number of sisters increased, it became necessary to enlarge the building; and this was done. Furthermore, other sisters were admitted, and the Order was extended beyond the confines of Bordeaux. Seeing the great benefits that the blessed Congregation brought to civil society, several illustrious

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cities of Gaul requested the establishment of monasteries of the Order, and the Venerable John [Ven. Ioannes] granted these requests. And so, the first new house was founded in BÉZIERS in the year 1616, with the assistance of two sisters whom the Servant of God sent there to carry out the work. Two years later, two other houses were established, in ANIERS and POITIERS. In the latter city, at the command of Cardinal de Sourdis, the Servant of God herself went with four sisters, and, with ease, won the admiration of all whom she met, and, having arranged everything properly and left a suitable sister to lead the monastery, she returned to Bordeaux. In the same year, a new foundation was also undertaken in TOULOUSE, but...

[*Latin ed. p. 590*]

590 BURDIGALEN. Due to difficulties, it was not possible to complete the work there. The present undertaking was prepared by the Bishop of Petrocoriensis, who, having given letters to the Servant of God, also requested, together with distinguished citizens, that she establish a house of the Order and schools for the education of girls. She arrived there with three companions in the year 1620, and prudently arranged everything that she brought. In the following year, 1621, she founded another monastery in Agen, which was successfully carried out through the industry of Marguerite de Puyferré. In the year 1622, a time that was sorrowful for the flourishing family, the envy of wicked men undermined that which was the support and foundation of it. For, according to the laws of the Institute, the election of a Superior was to be held every fourth year; and although the Servant of God had completed her three-year term of office, and wished to rest, she was nevertheless, until now, always confirmed by common suffrage, and her vows would not cease, persevering in the region of the Order. Thus, for twelve years, she presided over them, so that nothing better or more worthy could be assigned to her. The Venerable Servant of God, as the words of the Apostolic Procurator of Ruthenensis attest, governed the Order with piety, prudence, moderation, and gentleness, in a word, with all the qualities that a good director should possess. The regular observance flourished under the present Servant of God, who, herself observing all the laws of the Institute, did not allow the sisters to neglect their duties, nor did she permit anything of the former fervor to diminish. But things began to deteriorate towards the election which was held at the end of this year, 1622: and the reason for this change must be explained in more detail. Among the first companions of the Servant of God who later withdrew and became embittered, was a certain Blanca of Hervé, whose narrow mind, as if unsuited for great matters, was easily stirred by the stimulus of envy. This sister, perceiving that the Venerable Mother was diligent in assigning duties, and that she was just, began to harbor resentment and feminine anger. Finally, during that three-year period in which the V.D.F. presided over the Order, this nun, whom I have mentioned, began to plot against

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the Venerable Superior, similar to a priest who had been entrusted with the care of the sacred vessels in the monastery, in order that the Archbishop might be offended; for they said that nothing had been left untried to undermine her authority, and that letters had been sent to the Apostolic See. The Prelate, as was

[*Latin ed. p. 591*]

Bordeaux. In the year 591, being agitated and exasperated, John sharply rebuked her; and although that act testified to the sincerity of her obedience, it did not, however, succeed in removing all suspicion from the mind of the Bishop. Hence, a new opportunity arose, and it was easily for the enemies of the Handmaid of God to stir up a completely extinguished flame; for when, through an entrance opened in the lower courtyard for the purpose of bringing in supplies, this was reported to the Archbishop as an unheard-of offense, and it was said that she had, without his permission, and, as they claimed, with contempt for his authority, opened the door. The Prelate, incited by the most malicious reports, immediately rushed to the monastery, severely rebuked the innocent woman, ordered that the door be closed and sealed, and ordered that a mention of this incident be inserted in the records of the rule, and that it be publicly read aloud in the refectory. Indeed, the patience and humility of the Venerable Mother were admirable; for she did not raise her voice in defense, but diligently attended to the instructions of the Bishop. After a short time in the new house, several of the older sisters, who were able to appreciate the virtues of the Venerable John, departed; while the younger ones, partly because of the Bishop's offense, partly because of the malicious reports of the enemies of the Handmaid of God, and partly perhaps out of a desire for new things, became estranged from her, and, finding the most gentle rule of the Venerable Mother displeasing, they fell into discord. Indeed, at the elections held to choose a new Mother Superior, when John, as was customary, relinquished her office, they no longer extended to her the power that they had previously granted her, but instead placed Blanche Hervé, her most bitter enemy, in her place. This woman, having attained such great authority, although born in a humble station and having no connection to noble lineage, began to act haughtily, and, having been given the time allotted to her, she was unable to exercise her power without causing offense, and she subjected that sanctuary, which had been established for the sake of chastity, human kindness, and education, to every indignity and insult. And so, during that three-year period in which she ruled the monastery, she vexed the Venerable Mother in every way imaginable, and she did not fail to inflict any indignity upon her. These matters must be explained elsewhere; however, it should be noted that the Handmaid of God never failed in her duty to her, nor to her office. First of all, she showed obedience and submission to the new Bishop, she silently endured his rebukes, she subjected herself

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to unjust reprimands, and, while the sisters were horrified at her misery, she encouraged them and forbade them to complain. Moreover, she was forbidden to communicate with the sisters; meanwhile, she prayed for the religious community and for her persecutors. And God, indeed...

[*Latin ed. p. 592*]

592 BURDIGALA. Illam sola tunc est; namque effecit ut temporalis ordopropagaretur, et animus illius virginis fatuae ita dempermo vit, ut peccatum suum agnosceret, et ad meliorem frugem rediret. Quare, quam triennio elapso, onus suum deponeret, veniam cum lacrymis ab Ancilla Dei petivit, et facile impetravit; imo, sororibus quibus scandalo fuerat, praeivit exemplo, ut maculam iustae porrisanctiori vita et ferventiori pietate detergeret. Ceterum, divinam ultionem haud effugit criminissocius, qui ministeriisui oblitus potissimum valuerat authoritate ut tanta malorum seges excresceret. Nam, cum nequitia eius et perdita vita archiepiscopo innotuisset, pulsus ine exilio meritas delictorum poenas persolvit. Depulsato tempore, in qua invicta Serva Dei constantia praeclara enituerat, pacatiora tempora sequuta sunt. Siquidem mater de Badiffe, qua monasterii regimen suscepit, ea quae pararet observantia Venerabilis Fundatricem coluit; nec solum eam visit et eris Ordinis domibus datis epistolis prospicere; sed nihil arduum aggrediebatur quin eius sententiam exquisivisset. Cum vero actum esset de novo monasterio Palierigendo, quae civitas totius Berniae princeps Calviniana admodum fuerat infecta, negotium illud Venerabilis Dei Famulae creditum fuit, quae senectutem incommodam contemnens, alacritate profecta est mense septembri 1626, cum quatuor sororibus et duabus neptibus, quae illius institutum amplectebantur. Ibi honorifice excepta, mirasedulitate omnia constituit, quae ad clausuram servandam, et regularem disciplinam retinendam conferrent: ipsa met naviter operam impendere pueris instituendis, illasque elementa litterarum docere, et vilissima quaeque ac molestissima officia perlibenter obire. Quod quidem caritatis, patientiae, humilitatis exemplum, in nobilissima femina, aetate iam devexa, amplissimi Ordinis Fundatrice, numquams sat mirandum, non modo sorores ad eamdem malacritatem imprimis excitabat, sed etiam alliciebat animos puellarum advenientium et maiorem earum numerum indies adducebat. Quin etiam plures mulieres illustres, cum catholicae, tum haereticae, virtute eius fama permotae, illam adibant, ut eius colloquiis fruerentur. Quas illa comiter excipiens, iucundisque sermonibus detinens, paullatim ad solidam pietatem illexit, et plures inter haereticas ad catholicam unitatem revocavit. Interea, acris totius Ordinis dirigendi, qui in dies latius protendebatur, minime vacabat; siquidem moder-

[*Latin ed. p. 593*]

• BURDIGALA. (-) ″) , , ! S93 The superiors of various houses, desiring

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to act in accordance with the common Mother of the entire Congregation, sought advice by letter on all matters. This was not done through the Superioress who resided in Burdigala; rather, it was Catherine de Guérin, who had succeeded Mademoiselle Badiffe, who made their election known through letters, so that it might appear that she was demanding this authority. However, the Servant of God, Mother de Guérin, after three years, relinquished her duties. Following the celebrated election, Mother de Landrevie, designated by unanimous suffrage, refused to accept the governance of the Order, which belonged to the Venerable Servant of God. Likewise, Sister Anna de Arrérac declined the office of oblate, imitating the example of Mother de Landrevie. Then, Mother de Turquoire arrived, who accepted the office of Superioress by the suffrage of the sisters; but this caused some disturbance, as she did not understand the good intentions of the exiled Joan. Therefore, as one historian says, she invoked the help of the holy Mother, and begged her through letters sent to her, to hasten to Burdigala, so that things might be restored to their former state, as if nothing had been amiss, so that proper order might be restored and the glory of the institute preserved. While the Venerable Servant of God was occupied with important matters, she delayed for some time; but at the urgent request of Cardinal de Sourdis, she departed without hesitation for Paris, and returned to Burdigala in the year 1632. The regular discipline and the study of piety had somewhat languished in that monastery, having been deprived for a long time of the excellent examples of the Venerable Foundress and of the former prioresses, who had departed to found new houses in various regions. From this, some disturbances arose; but Joan, as she rejoiced in all her usual ways, so also, with counsel, prudence, and admonitions, to which the Superioress was amenable, she easily resolved all matters. This provided the best example, so that the religious spirit might be revived among the sisters; for although she was advanced in years, she spared herself nothing, and urged all to observe the laws of the institute. Furthermore, a new Superioress was to be elected, and, knowing Mother de Marezolles to be suitable, she designated her, and all the sisters agreed to this. Finally, she applied herself to the rules of the Order, which had been written by Father de Bordes and which were maintained by numerous examples: she corrected certain things that were amiss, as recorded in the Acts, Volume XXIII, page 74.

[*Latin ed. p. 594*]

594 BORDEAUX. It was necessary. The Handmaid of God, having first consulted with the superiors of each monastery, took care that a carefully revised code of regulations be printed, with the approval of the Archbishop of Bordeaux; and to this was added a testimony written by the Handmaid of God herself, which would serve as a lasting monument for posterity, affirming that the same institute remained, as it had been from the beginning,

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founded on the same principles, and that its members lived according to that law and regulated their lives accordingly. These events occurred in the year 1639, when the Venerable woman had reached the eighty-second year of her age, and although old age and the weight of infirmities burdened her, God still granted her two more years of life. Seeing her Order flourishing marvelously, for more than thirty other monasteries had been established elsewhere, approved by many bishops and by the Apostolic See, thriving through the exercise of charity and the observance of the regulations, having overcome the enemies and difficulties that had initially opposed it, she received the sweetest fruit of her labors in her old age. Although the strength of her body weakened, her spirit was alert and prompt; therefore, she participated diligently in all the common exercises, and when one of the sisters once remarked with wonder how she could still act with such vigor at her age, she replied, "You are surprised; but know that, through the mercy of God and through the miraculous help of His grace, my spirit retains the strength of youth; therefore, it is all the more incumbent upon me to serve God and religion with the utmost zeal." Therefore, she spared nothing of herself; she visited and comforted the infirm sisters, seeking no rest; she devoted herself entirely to perfection, not only for her own sake, but also for the sake of her neighbors, especially her religious family, and she added to these external cares a spirit of such humility that she was always mindful of the good works and the fervent devotion with which she had diligently earned her merit. She saw that her daughters would soon be left without her guidance and counsel, but at the same time, she saw that a most excellent superior had been appointed for them: Mother Mazerolles, a Frenchwoman, who did not differ in any way from the Handmaid of God in her sentiments and judgments. Therefore, it seems that God acted with her faithful family as He had acted with the ancient Job and Tobit, to whom, after the most bitter trials, a time of peace and a long life in old age were granted, in order to test their patience. Indeed, the form of death approached.

[*Latin ed. p. 595*]

BORDEAUX. §95. The disturbance of mind did not seem to have touched her; for she was taken by a very brief illness, and in the year 1640, at the true age of eighty-four, having peacefully fallen asleep in the Lord. Concerning Virtues in General. There is unanimous agreement among historians and witnesses in praising the virtues by which the name of Venerable Joan is carried to heaven, as a woman of great strength, an unconquered heroine, and the absolute exemplar of all virtues. She seemed to have been created and prepared by nature itself for great and noble deeds; for she was endowed with so many gifts of mind and body, that whatever direction she took, she seemed destined to accomplish something great and remarkable. The learned historian rightly calls God's handmaid among the great men with

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whom nature, as he says, has endowed a great spirit, a noble mind, a just judgment, a pleasing wit, a wonderful dexterity, health, and inexhaustible strength of body. To all these, nobility of birth, abundance of wealth, and an exceptional beauty of form were added, so that it is fitting to say that she received not one or two, but five talents, with which she might profit, from God. I shall say nothing of the spiritual graces with which God filled the soul of this woman, from her earliest youth until her old age, so that she might diligently respond to them. Therefore, nothing obscure, nothing doubtful, or nothing to be feared was to be expected; but since, having entered the path of virtue at a tender age, and having applied herself with constant diligence to the work entrusted to her by God, she could not rest until she reached the highest peak of heroism, and she was to offer these gifts to the Church, which are more fitting for women, or rather, for great and illustrious men. Hence, in her youth, Thérèse became an outstanding example to be emulated, and when she founded her Congregation, she labored to convert heretics, pagans, and sinners, which is hardly less than what has been accomplished by the most distinguished of the Apostles. "Her beginnings," says the aforementioned biographer, "were more noble than her age, and she did not seek grace, but rather, she was the very foundation upon which she placed all her hope for fulfilling her plans, even though they seemed too great and even impossible to human understanding." Her vast spirit was beneficial to her, so that she might conceive of the glory of God and the salvation of souls; her keen intellect, so that she might find and apply the means.

[*Latin ed. p. 596*]

BURDIGALEN. She possessed the necessary resources; constancy in her purposes, so that she might overcome and vanquish obstacles; active zeal, so that she might quickly tend towards her goal; strength of body, so that she might work tirelessly and never fail in the struggle; nobility of character, so that gentleness and humility might be clearly evident; abundance of wealth, so that she might become more contemptuous of worldly things; and the beauty of her person, so that her chastity might shine forth more brilliantly. Having received from God all these talents, it is necessary that she should have attained the most excellent reward from Him. Let no one say that the virtues and good qualities of the Venerable [Saint] John were due to her own merits, for these are often great incitements to vice among many; but to convert these into instruments of holiness, as is fitting, and to bring forth the fruits of virtue, which shine with such splendor, is a work, a labor. Since the Venerable Servant of God accomplished this marvelously, she justly earned a splendid place among the heroines. What does this variety of qualities and virtues, with which she was endowed, and the diligent performance of various duties, signify? A young girl of high birth; a young woman diligently seeking the truth, and devoting herself to higher

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studies; a wife, who, like Sarah, knows how to love her husband, govern her family, manage her household, and present herself without reproach; a wealthy widow, who, like Tabitha and Judith, is full of good works and almsgiving, and who dedicates herself to prayer, fasting, and the mortification of the flesh; a nun, fervent in spirit, ready to perform all that obedience and the most rigorous discipline prescribe; a foundress and propagator of an Institute, most worthy, who, through arduous undertakings, much labor, and arduous journeys, gathers a large number of prudent virgins, and leads them to fight the battles of the Lord; a teacher of the truth, who instructs young girls in catechism, and religious women in higher asceticism, and teaches the firmness of the Catholic doctrine to heretics; an elderly woman, who overcomes the weakness of her body with the strength of her spirit, always eager to serve, always steadfast, to whom obedience is easy, and whose authority is readily accepted; prosperous in good times, and unconquered in adversity; I say, a woman who embodies the most perfect of diverse and manifold characters, is an unusual example of the many and varied graces of God, and is almost to be considered a prodigy. Therefore, the Testimonium II. Proc. Ap. Burdig. refers to these virtues.

[*Latin ed. p. 597*]

BURDIGALEN. 597. Venerable and heroic: A witness, II Proc., Apostolic Visitor of Pictavium, reports having heard that the venerable woman possessed heroic virtues, namely, a most outstanding, extraordinary, and perfect character. Or, as Testis IV, from Rethen, explains, she possessed a degree of excellence and a greater perfection than is commonly found among religious women – and indeed, in the most difficult circumstances; or, according to Testis II from Limoges, she displayed virtues of the most perfect kind, and in a higher degree than ordinary virtues. But the apostolic superiors, whose first task it is to praise, declare that she "excelled in her various states of life by her own virtues; she was an example of obedience and piety in her childhood; of all virtues in her adolescence; of spouses and widows in her youth; and when she became a religious, an example of all perfections; she fulfilled all the duties of her various states, not only in a commendable way, but also in a perfect manner." Another historian, in brief but weighty words, has affirmed that this woman, although noble by birth and connections, was even more virtuous.

FROM THE HOLY CONGREGATION OF THE COUNCIL OF VITERBO. OF MARRIAGE. February 28, 1891. Session 24, Concerning the reform of marriage. On September 6, of the year 1879, in Viterbo, in the parish church of Saint Faustinus, in the evening, secretly and with dispensations from the customary announcements, Ernestus Metallo, a soldier, and Anna Giannini, a young woman from Viterbo, were married. This marriage was contracted with the condition that the spouses should not cohabit, except after the completion of the act which they call civil. Immediately after the

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celebration of the marriage, Anna returned to her parents' home, accompanied by her spouse, and...

COMPENDIUM OF THE FACTS.

[*Latin ed. p. 598*]

598. AT VITERBO. The young man, together with Anne, his aunt, approached the military commander and obtained permission, by which it was allowed to Ernest to return to his military station after the hour established by law. But when this permission was denied, Ernest remained in the same station, and neither spoke to nor saw his bride again; for the following day, very early in the morning, he departed from Viterbo, never again to reside in any place where the woman might be found. Under these circumstances, and with the man asserting that he had truly, before the priest, given his consent not for the present, but only for the future, the woman prays that a dispensation be granted to her, concerning a marriage not yet consummated, so that she may contract marriage with another man. Therefore, the entire question lies in inquiring whether the marriage, concerning which there is a case, has truly been consummated, and whether, indeed, there are sufficient reasons by which a dispensation may safely be granted. A SYNOPTIC DISCUSSION. In my opinion, it is entirely necessary to come to a positive conclusion, unless I am mistaken, and all the evidence suggests this. I know, indeed, that certain things are lacking in this case, which would be absolutely necessary to legally establish the fact of a consummation not having taken place. But, if I am not mistaken, there is a difference between not consummating a marriage because of impotence, and between bringing about that lack of consummation through the fact of not having had intercourse. Certainly, if the cause were to be considered under the head of impotence, a three-year trial, an examination of the bodies of both the man and the woman, a solemn oath, the testimony of seven witnesses, in short, all that which is required by law and the sacred canons, would be necessary. But what is the point of all these things, when it is not even demonstrated that the couple have lived together for a quarter of a year? Let us suppose that the man is potent; let us suppose that the woman is corrupt; let us suppose that the reputation of both the man and the woman is such that they are prone to lying and easily given to perjury; but what does it matter to us, if the legal proofs demonstrate that, after the celebration of the marriage, they have not met, nor could they have met? THE OPINION OF A CANONIST.

[*Latin ed. p. 599*]

VITERBO. 599 It does not escape me, Most Reverend Fathers, that with regard to our matter, the fact of non-consummated cohabitation has not been legally, but rather fully, demonstrated. However, I wish to point out

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here that it is one thing to seek a judgment regarding the nullity of a marriage, and another to humbly request a gracious dispensation concerning a marriage that is valid but not consummated. Indeed, when a judgment of nullity is sought, either by one spouse or by both, all that is established by law must certainly be legally and fully demonstrated; but when the matter is of a gracious dispensation, the Holy See has declared that moral certainty alone suffices, as the Sacred Congregation for Matrimony declared in Rome on September 17, 1807, in the first query. And it should be noted that in this case, the matter concerned impotence, which had been demonstrated with only moral certainty to be absolute and perpetual; and yet, such impotence was deemed sufficient to grant a dispensation. Therefore, how much more should some legal demonstration suffice, together with full moral certainty, when, in judging the very act of cohabitation, the entire question rests upon it? If, with efforts made towards consummation, it suffices for granting a dispensation that it be established with moral certainty that those efforts were in vain; how much more will a dispensation be granted when both legal proof and moral certainty demonstrate that those efforts never took place? And I have stated these premises so that the Reverend Defender of the Bond might not, with undue emphasis, exaggerate the insufficiency of legal proof with regard to the facts. Furthermore, this legal proof, by itself and in the matter itself, will be shown to be sufficient, and indeed most sufficient, and will become even more so with the addition of supporting evidence, and by the common persuasion of all. And first, it must be absolutely presumed that Ernest and Anne, after the celebration of their marriage, never lived together, and had no intercourse, unless the contrary is positively proven. For they had entered into this agreement with the explicit condition that they would not live together, nor consummate the marriage.

[*Latin ed. p. 600*]

600. They would be mistaken, unless after the completion of the civil act. This, by oath, was affirmed by the woman; this, by oath, was confirmed by her mother. Indeed, the same was testified to by Maria Monti, the woman's aunt; likewise by Vincentius Ciampicaci, the woman's uncle, who was a witness to the marriage, and who openly affirmed that he had known the intention of neither cohabiting nor consummating the marriage before the civil act. This is further confirmed by the fact that the marriage of Ernesti and Anna remained entirely hidden, so that no one knew of it, except for three people to whom it had been revealed with great secrecy. But, I beg you, to what purpose this concealment of the marriage, and that by the woman, if the marriage had already been consummated by her? Would not the woman have exposed herself to danger, perhaps to protect a child already conceived, while she herself was pretending to conceal it? Is it not to be supposed that the woman sought infamy, when she could so easily

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safeguard her reputation? Therefore, since it is legally established that the marriage, as stated, was contracted on the condition that the spouses neither cohabit nor consummate the marriage, except after the completion of the civil act; and since the woman, after contracting the marriage, behaved in such a way as to clearly demonstrate this condition; it necessarily follows that the fact of non-consummation is legitimately hers, so that it cannot be denied, unless the contrary is positively and legally proven. But it is far from the case that the fact of consummation can be positively demonstrated in this instance; rather, it is legally established that, after the celebrated marriage, the spouses did not, not even for a quarter of an hour, remain together alone. And indeed, that immediately after the celebrated marriage, the woman went to her parents' house, and the man to a military station, almost all the witnesses present did not hesitate to assert. When questioned whether she had remained alone with her husband, the woman replied: "I never remained alone, because there was not even time to do so." This is consistent with the words of the bride's mother and aunt. The same was testified to by Vincentius, the woman's uncle, while speaking of the consummation.

[*Latin ed. p. 601*]

IN VITERBO. Six hundred and one [persons] were excluded [from consideration], either because, after the marriage, they were not together alone, or because the parish priest, who joined the couple in marriage, although he could not testify with his own knowledge, nevertheless, as a witness based on hearsay, related the matter as follows: he had heard that the couple separated immediately after the marriage; and the husband, accompanied by the uncle of the bride, went to the bride's house for a few moments, and then left her, to return to the military station. And it should be noted that the appearance of Ernest in the bride's house is related by other witnesses in such a way that, although there remains a doubt about the location, whether it was inside the house or in the street, it is nevertheless evident that Ernest, whatever place he was in, remained for only a short time with the rest of the family. And these events occurred already in the evening; but the next morning, very early, the man left Viterbo, two hours before the woman left her house. Therefore, since the man remained in the station throughout the night, and the woman left Viterbo in the morning, before she left her house, unless we assume that the marriage was consummated spiritually, it certainly could not have been consummated carnally. And it is indeed true that Ernest, immediately after the marriage ceremony, was forced to remain in the station, and was denied permission to leave; this was testified to by all the witnesses, and not only witnesses based on hearsay, but also witnesses who saw it. It is sufficient for all purposes to mention the testimony of Vincent Ciampicacigli, who, having accompanied Ernest to the military commander in order to obtain permission to remain

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outside the military station for a short time, received a negative response. And when asked whether Ernest could have secretly left the station during the night, I am certain that this did not happen, given the strictness of military regulations. Furthermore, that Ernest left Viterbo the next morning, very early, is also confirmed by witnesses, both based on hearsay and based on what they saw. Ernest, after leaving, did not return to Viterbo, and never saw the woman again, testified: 1. an actress under oath, 2. the mother of the actress, 3.

[*Latin ed. p. 602*]

602. In Viterbo, la sœur de l'actrice Maria Monti, 4. Vincentius Ciampicatigli, 5. et enfin, Aloisia Ribeca, qui a ouvertement déclaré qu'après le mariage célébré, Ernest n'était plus jamais entré dans la maison de sa fiancée. Que donc faut-il chercher de plus, lorsque des témoins, tous d'un accord, et sans aucune exception, attestent, avec des preuves qu'ils ont eux-mêmes vues, ou qu'ils ont entendues racontées, à un moment non suspect, un fait certain ? Peut-on dire que la preuve est faible, lorsqu'elle repose sur de tels témoignages ? Et ne correspond-elle pas parfaitement avec toutes ces circonstances et ces détails qui précèdent, accompagnent ou suivent le mariage ? Et si cela ne suffisait pas, il existe d'autres preuves, qui, bien que n'ayant pas été soumises aux procédures légales pour des raisons justes, offrent néanmoins une certitude morale, voire une évidence, concernant l'intégrité du corps de la femme. Je sais, très chers Pères, qu'il peut arriver, dans le cas d'une jeune fille, que les signes de la perte de la virginité disparaissent longtemps après, de sorte qu'on puisse la croire vierge, alors qu'elle a en réalité été corrompue. Mais je remarque que Anne a été examinée seulement quelques jours après la célébration du mariage : ce qui rend impossible toute dissimulation de la violation de son chasteté. De même, je remarque que l'examen a été effectué dans le but d'acquérir une certitude quant à l'absence d'un crime commis. En effet, pour surmonter l'opposition des parents d'Anne, Ernest avait affirmé, par un mensonge, qu'il avait violé la jeune fille ; c'est pourquoi le mariage a été célébré immédiatement, non seulement en secret, mais aussi, en raison du manque de temps, sans les publications habituelles. Après que la femme ait révélé la vérité après le mariage, la mère a voulu avoir une preuve certaine, et a donc fait appel à un examen corporel. Ainsi, après avoir fait appel à une sage-femme, et après avoir effectué d'autres investigations, la mère a obtenu la certitude de l'intégrité de sa fille. Par conséquent, en plus du serment de la femme concernant le maintien de son intégrité corporelle, et en plus de l'accord qu'elle a donné pour se soumettre, si nécessaire, à un examen corporel et juridique,

[*Latin ed. p. 603*]

VITERBO. Sixty witnesses testified that the woman, Anne, was a virgin,

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based on the diligence they had observed, and Benedicta Morini affirmed that she had certainty regarding the woman's integrity. These witnesses could be joined by others who stated that the marriage of Ernest with Anne had never been consummated, such as Vincent Ciampicacigli and Aloisia Ribeca. From all of these, we are compelled to conclude that the woman, Anne, has preserved her integrity up to this day. And even if she had not preserved it, it would still need to be concluded that she was not certainly corrupted by her husband. Therefore, in order to finally reach a conclusion, the consultant said, given that the strongest presumption stands for the non-consummation of the marriage, and given that legal proof excludes any and all cohabitation of Ernest alone with Anne alone, and given that moral certainty manifests that Anne is still a chaste and inviolate woman, and given that the testimony of seven witnesses fully confirms the truthfulness of the woman, and finally, given that from the testimony of the Most Reverend Ordinary himself, it is clear that there are very serious and urgent reasons for granting a dispensation; namely, from the obstinate opposition of the man and his parents, from the true and great poverty of the actress, who clearly needs the help of a husband, from the physical condition of the woman, who seems to need marriage to expel illnesses, and finally, from other very serious moral circumstances, which can be read in the vote of the Most Reverend Ordinary himself. THEOLOGIAN'S OPINION. Two things, he said, must be investigated, namely: 1. whether it is certainly known, at least with moral certainty, that the marriage in question was not consummated; 2. whether there are serious reasons which can effectively move the mind of the Supreme Pontiff to grant a dispensation. It must not be concealed that two proofs are lacking, which are required by the Constitution *Benedicti XVI, Dei miseratione* and the Instruction of the Sacred Congregation; namely, the testimony of seven witnesses on the part of the man, and the physical examination on the part of the woman. But the first defect is solely attributable to the man, who...

[*Latin ed. p. 604*]

-604 In Viterbi, postquam adiuvanus a Curia episcopali fodiana, ut nomina testium designaret, obstinavit se obtemperare. Sed, pervicacia viri non permittit quod quod mulieri, cum gratia implorata, negetur, et pars innocens, iure suo, spoliatur ob obstinationem alterius partis. Puella vero se paratam exhibuit ad inspectionem corporis sui, ut integritatem suam comprobet. Sed iudex eam ab hac inspectione dispensavit, ex pluribus gravissimis motivis, quae Episcopus Viterbi in sua epistola ad S. Congregationem copiosissime recenset. Verum, haec spontanea exhibitio puellae, nonne gravem praesumptionem de integritate eius inducit? Ceterum, multa exempla possent afferi, quibus S. Concilii Congregatio dispensationem indulserat, nonobstante defectu inspectionis, ob pertinaciam mulieris, vel quia mulier ab alio amasio violata fuerat;

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quin imo, in causa Toletana, die 14 Decembris 1878, mulier, quamquam se paratam exhibuisset ad inspectionem corporalem subeundam in Curia Romana Emi. Card. Vicarii, in qua ex delegatione examinata fuerat, tamen ab hac inspectione dispensata fuerat. Licet igitur et sacri Canones et Const. Ben. XIV et Instructio S. huius Cong. hanc inspectionem exigent, dicendum tamen est, probationem huiusmodi requiri tantum adminiculative, non copulative. Probatio haec exigitur a sacris canonibus quando agitur de probanda impotentia ad coeundum, et coniuges una simul condormierint et in contradictione iuramentorum mulieris negantis et viri affirmantis consummationem. At quando, ut in casu nostro, condormitio locum non habuit, argumenta ad probandam inconsummationem potius quam ab inspectione, nimis fallaci, desumenda sunt a iurata coniugum affirmatione, et praesertim si constet, sponsos post initum matrimonium nunquam solum cum sola, ne ad instans quidem, remansisse. *Cosci De separ. tori, lib. 3 c. 15; « nisi aliunde quoque eorum assertio coadiuvetur ex probationibus, nempe quod post matrimonium ratum nunquam una simul convenerint » atque lib. 1 cap. 16: « Hanc probationem, nempe quod matrimonium fuerit dumtaxat ratum, facere possunt testes, qui deponant quod con-

[*Latin ed. p. 605*]

VITERBO. "Sixty jurymen, having entered into marriage, have never been together alone in the same place, or at least, they have always remained in the presence of other people, and before these people, they have separated, and they have never lived together under the same roof." Here, we have the sworn assertion of both spouses that the marriage was not consummated; and witnesses, under oath, from the woman's side, have testified in unison regarding her honesty and the truthfulness of her statement. Furthermore, it is clearly evident from the records that, after the marriage, the couple did not even remain alone together for a moment. Indeed, after the celebration of the marriage before the parish priest and two witnesses, the bride and her mother went to the bride's own home; the groom, by a different route, returned to the same house, where he remained for some time in the presence of the family, and immediately left, promising to return shortly. But this hope was disappointed, as the superior officer did not allow him to return. Therefore, the assertion of both spouses, the spontaneous willingness of the bride to undergo a physical examination, and the testimony of the witnesses, that after the marriage they did not remain alone together even for a moment, morally establish the lack of consummation of this marriage. Moreover, there are reasons which could move the mind of the Supreme Pontiff to grant a dispensation.

1. OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE. If Anne is heard, the newlyweds have not spent even a single moment alone to-

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gether. And this is what the most learned consultants, a theologian and a canonist, believe. But, if I am not mistaken, this is undeserved. I lament that the judge of Viterbo did not order an examination of the midwife, nor did he bring in Venturina, Elvira, and Cecilia Medori, who were very familiar and intimate with the woman. I lament that the defender of the sacrament, whose duty it was to defend the validity of the marriage and to bring forward everything necessary to uphold the marriage...

[*Latin ed. p. 606*]

606 VITERBO. The testimonies are contradictory, as the judge conspired. And I do not consider the argument, as they say, to be refuted by being contradicted from the opposite side. Indeed, Aloisia Ribeca reports: "I clearly remember that around midnight, on the same day, on the day of the marriage, Metallus entered my tent to greet me." Aloisia Ribeca's daughter confirms this. But let us proceed: if the lack of time did not prevent Ernest from visiting Aloisia Ribeca, it will not be easy to believe the witnesses who claim that Ernest did not have enough time that evening to meet with Anne. Nor will I accept the objection that Ernest went to Aloisia Ribeca through the very act by which he, together with Vincent Ciampicacigli, departed from the house of the bride, in the presence of the witnesses, to go to the castle. For Aloisia Ribeca continues: "I also remember that Ernest had with him the brother of the bride, but certainly not Vincent Ciampicacigli." Furthermore, it is clear that Ernest, if he left Viterbo the day after, did so because he had stopped receiving his wages. Therefore, it must be concluded that in those final hours, he was not so closely guarded that he could not leave the castle and spend a long time with his wife. Finally, the entire affair in Aversa suggests that the departure of the guards, who are said to have brought Ernest the following day, occurred almost at the very moment that the soldiers were getting out of bed. I am astonished that neither the moderator of the proceedings nor the advocate for the marriage made an effort to investigate these readily available circumstances; for it was certainly known at the time when the guards departed, and at the time when the soldiers rose. But there was ample time between the two events, as the parish priest of the saints Faustinus and Jovita testifies: "I knew that Ernest knocked at the door of the bride's house before his departure; I do not know, however, whether he saw her, or whether he spoke with her." Indeed, Ernest himself confesses without hesitation that he not only spoke with his wife before leaving, but that he did not even go to Viterbo the day after the celebration of the marriage.

[*Latin ed. p. 607*]

IN VITERBO. Six hundred and seven, and meanwhile, more than once, the man had entered his wife's house and they had taken lunch together. This confession of the man must be held in high regard, since it is con-

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trary to what the confessor would expect. I cannot contain my laughter when I consider that they began a marriage under the condition that the spouses would not cohabit until Ernest was obligated by the law. Indeed, this condition not only infects Ernest, even though he also fights against the marriage for the sake of the altar and the hearth, but it is truly similar, because the parents of the actress are the ones who gave their daughter to Ernest in marriage, so that they considered her to be with child. Finally, I consider it a fabrication that the midwives examined the body of Anne after Ernest's departure. For the mother of the actress, the author of this work, when questioned by the judge, was asked: "Do you know the name and address of the midwives?" and she responded cautiously: "I do not know, perhaps they are dead." Furthermore, it is certain that not only the mother of the actress, but also the actress herself, were questioned by lawyers who were thoroughly instructed. With all of this established, I consider it superfluous to investigate whether Ernest, after leaving Foggia, again visited Viterbo and conversed with his wife; I also consider it prudent to act on the reasons for dispensing with necessities, since it is not at all certain that the marriage remained valid after the imperfect consummation. With these considerations, the following question was proposed: Should one consult with His Holiness regarding a dispensation from a valid but unconsummated marriage in this case?

RESOLUTION. The Sacred Congregation, after discussing the matter on February 28, 1891, decided to respond: Affirmative.

[*Latin ed. p. 608*]

608 FOROIULIBN. CONCERNING THE CARE OF SOULS. January 31, 1891. Session 22, chapter i, On Reforms. COMPENDIUM OF DECREES. The Bishop of Foroiuli, in his letters, "humbly requests the faculty, which had already been granted to the Archbishop of Tolosano on May 9, 1884, to compel, under the precept of obedience, and even, if necessary, with the threat of censures, priests of strong character and free from any office, to undertake the care of churches, to minister to those lacking a pastor, or to fulfill other duties under the title of vicar, chaplain, or the like." The favorable response granted by the Archbishop of Tolosano, and of which the Bishop of Foroiuli makes mention, is of this tenor. Cardinal Desprez, on May 21, had requested the following: "Since it often happens that priests, to whom the care of subsidiary churches has been entrusted, seeking leisure or an easier life, renounce their office, requesting permission from the Ordinary, even before its acceptance, because they do not hold benefices properly so called, and return to their own affairs; hence, it happens that many priests, though still vigorous in body, lead an idle life, both in the episcopal city and in the more important cities of the diocese, not without scandal to the faithful. Meanwhile, many parish churches lack proper pastors, to the great detriment of religion, because the Bishop, due to the scarcity of priests,

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is unable to provide them with a suitable pastor; therefore, the petitioner requests from the Holy Congregation: '1. Whether it is permissible for these priests, since they do not hold benefices in the proper sense, to withdraw from their office without first obtaining the permission of the Ordinary? '2. Whether the Bishop has the right, by the precept of obedience, and even, if necessary, with the threat of censures, to compel them to..."

[*Latin ed. p. 609*]

"FOROIULIEN. Can the parish priest persist in his office, until he can provide for a suitable successor? 3. Under the same precept, and with the same considerations, does the Bishop have the power to compel priests who are strong in their faculties and free from other duties to undertake the care of their churches, as long as he can provide for them in another way?" On June 9, 1884, the following response was given: Considering the particular circumstances, the answer to the first question is negative; to the second, affirmative; and to the third, affirmative, with the power granted for seven years, if so long, etc. Synopsis of the Discussion. The petition from the Bishop of Foroiulien, which is now before us, is not different from that which was presented a few years ago by Monsignor C. Desprez in the third article of his book, and which was rightly accepted, as is clear from the aforementioned response. And indeed, it was rightly done at that time; for although the canonical laws grant a certain freedom to clerics, and do not commit them entirely to the judgment of their Bishops, as if they were regular clergy entirely subject to their superiors; rather, they state that clerics cannot be compelled by their Ordinaries to perform any service not expressly provided for in the law, as stated in cap. Quia cognovimus 6, causes 10, question 3, with Fagnano, cap. Conquerente 16, De off. Ord. n. 8, and Barbosa v. Processio n. 5, in the collection of Apostolic decrees, where the decrees of the Sacred Congregation are also cited; nevertheless, it is not absolutely established that this is the case. Indeed, whenever necessity and the common good require it, priests who are strong in their faculties and free from any office can be compelled to dedicate themselves to the work of saving souls, which is the certain opinion that has been widely approved and sanctioned by the Sacred Congregation of the Council. It is sufficient to consult the documents from Urbisvetana, May 10, 1766; from Trent, August 18, 1860; from Civita Castellana, July 11, 1862; and also from the most ancient ones, as in Cosentina, 5 Acts, Volume XXIII, page CCLXXIV, 39."

[*Latin ed. p. 610*]

610 FOROIULIEN. Aprilis 1593, i Q Nacœien. 22 Augusti 1631 aliisque constanter decisa sunt. Sic, puta, in Naxien. ad 2, S. C. C. respondit, sacerdotes, de quibus ibi agebatur, posse utique a suo "Archiepiscopo compelli ad praestandum servitium, quod eiusdem ecclesiae necessitas aut utilitas requirit." Et revera hoc fluit ex ipsa ordinationis natura; nam non

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sine causa obedientiam et reverentiam Ordinario suo in actu ordinationis spoponderunt sacerdotes; nec clerici in sortem Domini otiose vocati sunt, aut sacramenti gratiam receperunt, ut solum sibi prodessent, sed potius ut et aliis tribuerent. Unde S. Hieronymus in epistola ad Nepotem, clericos ita alloquitur: "Recordemur semper quid Apostolus Petrus praecipiat sacerdotibus: Pascite eum qui in vobis est gregem Domini, providentes non coacti, sed spontanee, secundum Deum." Quapropter dici solet, ceu in cit. Urbevetana § Ceteroquin legitur, obligationem vacandi spiritualibus ministeriis clericis penitius quam dici possit inesse, "nimirum aliquando ex caritate, si alias provisum populi saluti sit, ex religione autem et ex necessitate, si necessitas postulet." Salus enim populi, et praesertim aeterna, suprema lex est. Utique in determinandis huius necessitatis limitibus regula taxativa minime tradi, posse videtur; quoniam isthaec determinatio a variis pendet temporum, circumstantiarum et locorum adiunctis. Quapropter in rescripto ad Emum Tolosanum Praesulem facultates ad septennium et perdurantibus iisdem circumstantiis iustissime datae sunt. Cum autem in casu Episcopi Foroiuliensis eadem sit facti species, nil ulterius ad quaestionis illustrationem addendum esse visum est, et enodandum. Sequens propositum fuit: Dubium An et (quomodo concedenda sit facultas cogendi sub praecepto obedientiae, adhibitis etiam, si opus fuerit, censuris, sacerdotes viribus pollentes et a quocumque officio liberos ad curam animarum, aliaeque munera pyra regimine animarum necessaria suscipienda in casu.

[*Latin ed. p. 611*]

FOROIULIEN. 611 The Sacred Congregation of the Council, having considered the matter on January 3, 1891, decided to respond: "Affirmatively, in the terms of the rescript issued in Toulouse to the third [person], provided that the same circumstances are present."

RESOLUTION. VENETIAN NATION. On February 28, 1891. Concerning the number of Masses. The Patriarch of Venice reported to the Sacred Congregation that a parish of great importance on the island of Burano, besides the parish priest, ought to be assisted by two other co-operators; but that at present, only one is present. The Franciscan Fathers from the neighboring island offer to celebrate three Masses on Sundays and feast days for the parish of Burano. But this kindness does not fully provide for the needs of that people. For three Masses are celebrated at fixed hours for the greater convenience of various people. But another Mass ought to be recited at the hour of *octava* [the eighth hour, i.e., dawn] to benefit mothers of families, and many others, who are only free at this hour due to their business. Of the seven thousand faithful who belong to the parish, many attend Mass at the hour of *octava*, if, by the kindness of the aforementioned Fathers, a fourth Mass is offered; so that at that hour, the church is filled with people. The parish priest of said parish, grieved that

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he cannot obtain a fourth Mass for all feast days, in order to meet the needs and complaints of the people, requests from the Apostolic See an indult [dispensation] so that the Mass at the hour of *octava* may not be omitted. In order to obtain this indult, reasons of equal weight cannot be presented, as requested by the Constitution *Declarasti*; however, there is a great opportunity and suitability for promoting the good of souls by offering a fourth Mass through a dispensation. This opportunity and suitability would be difficult to serve because of the lack of priests.

COMPENDIUM OF THE MATTER.

[*Latin ed. p. 612*]

612 The difficulty and inconvenience of providing a parish in an island, especially during the winter months. The Patriarch recommends prayer, stating that while a fourth Mass would be beneficial to that population, he is unable to address this need due to the increasing shortage of priests; a shortage that grows daily, so that he does not know whether or when he can send a second priest to assist. The great distance and the necessary expenses for traveling to the island on all feast days constitute a significant obstacle to having a priest available for this task. *Disceptatio Synoptica.* Benedict XIV, in the Constitution *Declarasti nobis*, after citing a canon from the Council of Nîmes, where these words are found: "If all the parishioners cannot come together for one Mass at the same time, because they live in different places, distant from the church, as is the case in mountainous regions, and there are not two priests in the church, and, after the first Mass has been said, parishioners arriving afterward request another Mass to be said for them, then the priest can celebrate another Mass;" then he observes: "These words must be carefully observed, especially where there is only one priest; nor are there two priests in the church. From these, it is clearly understood that it is not permissible for a parish priest, if another priest is present, to perform two sacred rites on feast days, so that the people may participate in the Mass sacrifice." However, in this case, there are three priests present, the church is spacious, and the number of people is not excessive. Furthermore, the fourth Mass is requested more for convenience than necessity, namely, so that women can provide food for their husbands and families at the appropriate time. Whether, for this reason, it is advisable to dispense with the law established to protect the due reverence of the divine sacrifice, the matter was left undecided. Moreover, it would need to be considered whether, by slightly changing the hours currently assigned for the three Masses, the needs of women and families cannot be met, without resorting to the extraordinary remedy of

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an indulgence.

[*Latin ed. p. 613*]

VENETIARUM 613, specifically concerning the repetition of the Holy Sacrifice, although in itself most holy and, in speaking absolutely to God, most acceptable on account of the divine sacrifice; nevertheless, it always carries with it this disadvantage, namely that the priest, burdened with the obligation of two celebrations, has an excuse to perform the other duties with less zeal and solicitude, namely preaching, imparting catechesis, hearing sacred confessions, in a word, fulfilling that ministry of the word from which faith is chiefly built up and morals are corrected in the people. Furthermore, these things said are objections; for there are also weighty reasons in favor of granting this concession of grace, which are clearly explained in the letters of the Eminent Patriarch. Considering these matters, the question was raised as to how the prayers should be arranged. RESOLUTION. The Sacred Congregation, after discussing the matter on February 28, 1891, decided to respond: Having considered all things, it does not seem expedient. CAIACEN. OF THE PARISHES. On February 28, 1891. SUMMARY OF THE MATTER. The city of Caiacensis is divided into three parishes: the first is located in the cathedral, the second near St. Nicholas, and the third near St. Peter. However, the suburban area, which widely surrounds the city, almost entirely belongs to the cathedral church. Furthermore, the present pastor of that diocese, following in the footsteps of his predecessor, seeks a better division of the territory, and says that it is necessary to arrive at a new and reasonable delimitation, also begun by his predecessor, by which each parish priest will obtain that portion of the territory which is closest to his parish; so that the farmers may not lack catechetical instruction, and the last salutary assistance, at the time of death, which has often had to be lamented.

[*Latin ed. p. 614*]

614 GAIACEN. On May 9, 1890, a decree was issued to the Bishop, instructing him to transmit in writing the opinion of the chapter, as well as that of the parish priests and others who might have an interest. Subsequently, both the chapter and the cathedral parish priest, as well as the parish priest of St. Nicholas, most willingly expressed their agreement for the good of souls, and the written documents were sent to the Sacred Congregation for the Propagation of the Faith. However, the parish priest of St. Peter did not agree. In view of these circumstances, on July 18, 1890, a communication was sent to the Bishop, suggesting that he persuade the parish priest of St. Peter to refrain from opposition. But in vain: therefore, the Bishop implored that the new demarcation of the parishes be approved under this condition: namely, that one-third of the new territory be granted to the cathedral parish, until the parish of St. Peter is properly administered

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by an actual pastor. A Synopsis of the Arguments. The parish priest did not agree to the enlargement of his parish, because, due to the unhealthy air, the narrowness of the houses and streets, it often happens that he, burdened with serious cares, is called to different parts of the parish at the same time, for the sake of the sick. Furthermore, he argued, the income of the parish does not allow him to have an assistant, so that the pastor of this parish might receive some relief in the arduous administration of souls. The smallness of the income of the parish of St. Peter, the opponent stated, is evident in comparison with the incomes enjoyed by, and the number of souls governed by, the other two parishes. For these reasons, and with great reluctance, he prepared to oppose the Bishop's wishes; in order that he might be able to fulfill the parochial duties with greater ease, given his condition of health; for if these duties were increased, their fulfillment would become almost impossible. On the other hand, the Bishop observes that the parish of St. Peter is composed of many small houses of the poor, with only a few exceptions, which are almost all clustered in the same place: therefore, the exception of excessive labor cannot be urged by the parish priest; and that the unhealthy condition is either of the town or of the countryside.

[*Latin ed. p. 615*]

CAIACEN. 615 The dream of the mind: It is not fitting that one should be diligent when burdened by grave concerns, because a greater part of the day is spent ringing the bell. However, it has been observed that no alteration of the boundaries, concerning which there is a question in this case, should appear to be a dismemberment with regard to the cathedral, and conversely, a certain union should appear with regard to two other parishes. Furthermore, just as dismemberments and unions are considered odious in law, and therefore must be carried out not only for the great and evident benefit of the Church, but also with the consent of those whose rights might be harmed by suppression, division, or union. Clem. 1 § Regarding this, *De stat. monach.* Reiffenstuel, *ad tit. 12, lib. 5, n. 72*, with others. However, in the matter of such consent, at least with regard to the effect of the union of a part of the territory of the cathedral to the parish of St. Peter, it is lacking. Unless, on the other hand, it may be observed that such solemnities in unions and dismemberments are not so absolute that they cannot proceed without them. Indeed, if evident necessity demands it, the Bishop can legitimately provide for the dismemberment or union of benefices, even without the consent of the chapter, and even of those who have an interest in the matter, as Reiffenstuel, *l.c., n. 78*, Schmalzgrueber, *ad tit. 5, lib. 3, n. 187*, and others state. Indeed, the Council of Trent, *sess. 21, cap. 4, De reform.*, expressly states that Ordinaries can proceed to divide parishes, even without the consent of the pastor, because of the distance between the places, and this was confirmed by Benedict

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XIII in the constitution *In supremo*. Furthermore, it seems more reasonable to consider solely the spiritual jurisdiction in the matter, rather than the dismemberment and union of benefices. However, if unions, divisions, or dismemberments of benefices are considered odious, this is primarily with regard to temporal goods, because in these changes, the will of the founders is offended to a lesser extent. But this is not the case with regard to spiritual jurisdiction, which has no other author than Christ, which is in the dominion of no one, and whose limits are assigned by one Church, and...

[*Latin ed. p. 616*]

616. Therefore, these [censuses] can be altered by the prelates of the Church, if evident utility or the necessity of souls suggests it, and this can be done according to the circumstances, without the laity, patrons, or lower clergy generally being able to interpose their consent, or presume to demand a change in form or justice. With these considerations in mind, the purpose was to examine the question of whether and how to proceed with a new delimitation of boundaries in this case. RESOLUTION. After discussion by the Sacred Council on February 28, 1891, it was decided to respond: Affirmative, according to the vote of the Bishop and more. FABRIAN. CONCERNING INDULGENCES FOR STUDIES AND THE REDUCTION OF OBLIGATIONS. January 30, 1890. Summary of prayers. COMPENDIUM OF THE CASE. Peter Bargagnati, a cleric of the Diocese of Fabrian, on March 23, 1888, was appointed by the chapter to a certain choral chaplaincy, which, according to the founding documents, is to be conferred upon a cleric by the city or the Diocese, and which he is obligated to serve in connection with the title of ordination. The chaplain, according to the law of the founder, is obligated to perform choral service during all hours when the schools are not in session; moreover, he must celebrate the feast of Jesus of Nazareth, and offer 59 Masses on certain days at the altar of St. Joseph in the cathedral, along with an alms of 17 and a half gold coins. The revenues of the chaplaincy are now said to amount to 318 gold coins, and come from two public Italian bonds, and from four private [censuses] in Uzes; but after deducting expenses, they do not exceed 168 gold coins. Recently, this cleric, having been co-opted among the students of the Seminary of St. Pius in the City, requested a dispensation from his residence.

[*Latin ed. p. 617*]

FABRIANEN. 617, and the assistance of the choir, II: a reduction of Masses from 59 to 24; which may also be applied in the Cathedral, on days not specifically assigned. The Chapter, when questioned about these matters, submitted a proposal, signed by its Prior, who considered that the absence of the petitioner would cause considerable detriment to the service of the choir due to a lack of benefactors; and it issued a decree

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that the Masses remaining after the reduction should be celebrated at the designated altar on the solemnities of the year. The Bishop agrees with the Chapter's proposal regarding the service of the choir; but, he says, it cannot be denied that it would be most beneficial for the cleric Bargagnati to remain in possession of the chaplaincy, which should be a place of sacred endowment, according to the will of the founder. A SYNOPTIC DISCUSSION: Regarding GRACES TO BE GRANTED, in chapter 4, the report on non-resident clerics states that a benefice is to be held with personal residence "unless, perhaps, with the permission of their prelates, or for the sake of studies, or for other honest reasons, they should be absent." Indeed, it is of the greatest importance for the Church to have men of learning and science in its administration. And therefore, when four reasons are enumerated in chapter 1, session 23 of the Council of Trent, under which a cleric may be absent from his residence, namely, Christian charity, urgent necessity, due obedience, and evident benefit to the Church or the Republic; the Doctors commonly teach that this last reason should also include, as a species of a higher order, the reason of studies. Reiffenstuel, book 5, title 4, paragraph 104. Ferraris, v. Canonici, article 5, paragraph 37. Thus, the origin of indulgences for the sake of studies is derived. For although, according to the reasons presented, a cleric may have a just and canonically recognized reason for absence due to studies, nevertheless, according to the teaching of C. Petra to the Constitution X of Boniface VIII, n. 7, he cannot legitimately be absent unless he has requested and obtained permission from his prelate. In fact, it has become customary that such permission or indulgence is granted only by the Sacred Congregation of the Council, and that otherwise, indulgences are not granted to those who have not obtained the executorial approval of the Ordinary.

[*Latin ed. p. 618*]

618 FABRIANEN. As Fabricius states, citing I. and C. De Luca in *Rei Romanæ Curiae*, discussion 15, number 7, whose doctrine was confirmed by the Sacred Congregation of the Council in Rome, in the Indult of Doubts, May 6, 1820, in question 9. Therefore, if the common law is considered in the abstract, it is clearly evident that an indult of absence from the choir can be granted to a cleric, at least until he reaches the age of 25; for at this age, the indult should naturally expire, as stated in the aforementioned Indult of Doubts, May 6, 1820, § Indulta.

IT SEEMS THAT THE GRACE SHOULD BE DENIED. However, if the particular circumstances of the case are considered, perhaps a different judgment should be rendered. Indeed, if such a long and absolute absence harms the choral service, this reason alone is sufficient to oppose the granting of the cleric's requests. Furthermore, since the cleric has obtained a gratuitous place in the Pious Seminary, which constitutes a considerable

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benefit, equity itself seems to suggest that the cleric should relinquish the choral benefice, having been provided for by this benefit, and allow it to be granted to a more needy cleric. And this concerns the first point, namely, the prayers.

As for the reduction of Masses and the indult to celebrate them on the same feria days, it should be noted that the obligations of the benefice are not very onerous, so that, even after all are fulfilled, still 1,680 psalms are recited by the beneficiary. Furthermore, the transfer of the celebration to feria days does not benefit the Church or the convenience of the faithful, and therefore is not approved by the Chapter. Nevertheless, since the founder initially established a Mass alms of 17,120, which was perhaps a diocesan tax at that time, it does not seem incongruous, nor does it contradict the practice of the Sacred Congregation, if, today, with the increased stipend for Masses, the number of Masses is also proportionately reduced.

Having considered both points, the question was raised as to how the requests should be decided.

RESOLUTION. The Sacred Congregation, having considered the matter on January 31, 1891, decided to respond: "For the grace of dispensation from residence for three years, and for the reduction of Masses to thirty, to be celebrated, according to the vote of the Chapter, for the same period of three years."

[*Latin ed. p. 619*]

61. "Vratislaviensis. Irregularity. February 28, 1891. Through summary petitions. SUMMARY OF THE CASE. The Bishop of Vratislaviensis recently sent these letters to the Most Holy [Father]: "Humbly, I present to Your Holiness, on behalf of the young petitioner, Hermann Weigel, the following: The aforementioned petitioner, born on February 15, 1865, of a Catholic father and a Protestant mother, was baptized and raised in the Catholic faith, and subsequently attended a Protestant gymnasium. In the year 1886, he fell into the Protestant heresy, to which he adhered for nearly two years. Afterward, with the help of Divine Grace, he recovered, and in August of 1888, he returned to the Holy Mother Church, contrite. He then devoted himself to the study of theology, and is now admitted to the clerical seminary, where he will soon receive the tonsure and the minor orders. However, he cannot be promoted further, since he is irregular due to a fault committed because of his heresy. Therefore, the petitioner earnestly implores Your Holiness to deign to grant him a dispensation with the utmost clemency regarding this irregularity. I dare to add my support to these petitions, and, together with the supplicating petitioner, I offer my thanks for the great grace."

SYNOPTIC DISCUSSION. It is the common opinion that the children of heretics, namely, those of the first degree, are irregular; and likewise, those of the first and second degrees, if the father professes the heretical sect. *Em.

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D'A n i b a l e, Summa, vol. 1, § 432, 3rd edition. S. C. S. Officii, decree in Posen, July 25, 1866, confirmed July 11, 1884, in response to Bishop Harten. Zitelli, Apparatus iuris eccl.*

However, in this case, the petitioner, besides being the son of a heretical father, also, for a time, proclaimed the Catholic faith, in which he was born and raised, and adhered to the Protestant faction for nearly two years; therefore, he is almost doubly...

[*Latin ed. p. 620*]

"620 WRATISLAVIEN. It appears to have become irregular. "For those who believe are made, by the very law, infamous, defenders and supporters of heretics, and therefore irregular, if they have scorned to make amends within a year." Cap. 13, § 5, *De Haeret.* However, these things in no way prevent the supreme power of the Church from dispensing with the rigor of the law, and from absolving those whom, either by crime or by infamy, the laws render irregular and exclude from offices and ecclesiastical benefices, Cap. 2 and 15, *De Haeret.,* in VI, albeit benevolently. The conversion of the individual and his education in the Seminary, as well as the recommendation of the Bishop, may legitimately be titles for the granting of grace. With these premises, the question was raised as to what answer should be given in prayer. RESOLUTION: The Sacred Congregation, having considered the matter, decided on February 28, 1891, to respond: "For the present, it does not seem opportune; and in the meantime, let further signs of perseverance be observed." FROM THE SACRED CONGREGATION FOR BISHOPS AND REGULAR CANONS OF LAURETANA AND RECINETEN. DISTRIBUTION. February 27, 1891. SUMMARY OF THE CASE. In the year 1883, the Chapter of the illustrious Basilica of Lauretana brought a lawsuit against the royal treasury, commonly known as *Fondo per il Culto*, in order to claim the favor of dignities and canons who had not been subjected to the law of suppression, through distributions, which were to be given to those who had complied with the suppression. The dispute, which had long remained undecided, was finally resolved in favor of the Chapter, to which a considerable sum of money was therefore granted, which was distributed among the dignities and canons.

[*Latin ed. p. 621*]

LORETO AND RECINETO. 621. Indeed, from March 15, 1879, Father Pacificus Ripamonti had been appointed coadjutor to the Archdeacon, Paul Giachini, in accordance with a Pontifical Bull, with the expectation of succeeding him. Consequently, a dispute arose between the families of Ripamonti and Giachini, since both claimed the sum of 439.92 livres, which constituted a portion of the Archdeacon's assigned distribution, as each family maintained that the aforementioned sum was due to them. Since the matter could not be resolved amicably, the heirs of Ripamonti, on May

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29, 1889, presented a petition to the Sacred Congregation of Bishops and Regulars, alleging various accumulated rights pertaining to the coadjutor, and citing customs prevailing within the Chapter, and requesting that the following be decided: 1. That the Chapter of Loreto be ordered to pay to the heirs of coadjutor Ripamonti the aforementioned sums, corresponding to the periods during which Father Ripamonti served as coadjutor to Archdeacon Giachini, for the suppressed benefices and for any damages incurred; 2. That the aforementioned Chapter be ordered to pay to the aforementioned heirs, for the same periods, interest on the aforementioned sums, at the rate of five livres for each hundred livres. As customary, these requests were, on May 29, 1889, delegated to the Bishop for information and opinion, after hearing the Chapter. The Bishop, acting in accordance with his duty, and following the mandates of the Sacred Congregation of Bishops and Regulars, on July 22 of the same year, transmitted his opinion, supported by several reasons, contrary to the requests of the petitioners, along with the Chapter's resolution. Upon receiving these, the moderators of the same Sacred Congregation deemed it appropriate to write to the petitioners, advising them to exercise their rights before the episcopal court. However, the Bishop, for serious reasons, requested and obtained that the vicarius general of Recineto be delegated to resolve the dispute. Exercising the power delegated to him, the vicarius general of Recineto, after considering the facts and giving the necessary warnings in accordance with the provisions of common law, ordered the daily distributions.

[*Latin ed. p. 622*]

622 LAURETANA AND RECINETEN. It pertains not to the coadjutor, but to the assistant, as stated by Moneta in *De distributionibus quotidianis*, volume 1, question 1, number 34, citing Navano, Gonzalez, and S. Rotam. "A coadjutor, having been granted a canonry or position in the Cathedral or Collegiate Church with the expectation of future succession to the dignity, cannot, in a regular manner, profit from the daily distributions for himself, but rather profits from them as coadjutor."

It is understood that, unless any general or specific law provides otherwise, adherence must be given to the agreement made between the coadjutor and the assistant, and especially to those statutes that were established in the coadjutor's *Bulla* after the agreement was initiated; so that the coadjutor should receive annually 600 *libellae* from the fruits, revenues, and proceeds, and also from the daily distributions and other uncertain items of the aforementioned archdeaconry, as compensation for the assistant's service.

It is understood that the heirs of Ripamonti cannot invoke custom, because, even if it were true, it was superseded by the mutual consent of the parties.

Finally, it is understood that the aforementioned heirs of Ripamonti use-

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lessly object to the fact that certain small portions of the daily distributions, of little importance, were received by the coadjutor among the canons, before the lawsuit against the government was initiated by the Chapter, and that the assistant complained about this. Since this fact can be attributed to the assistant's generosity, it cannot have such force as to invalidate the disposition of the Pontifical *Bulla*. And especially because it concerns entirely extraordinary and unforeseen distributions, which, since they can be increased, rather constitute a new benefit, than true distributions. Therefore, it can be deduced that the custom invoked by the heirs of Ripamonti regarding the perception of distributions lacks any foundation.

Having considered these and other matters, the delegated judge, through a sentence issued on April 18, 1890, determined the portion assigned to the Archdeacon of Lauretana from the sum paid by the Government to the Chapter for the daily distributions of the suppressed canonries, for the period in which the priest Ripamonti served as archdeacon, namely 4.

[*Latin ed. p. 623*]

LAURETANA AND RECINETEN. 623 Giachini served as coadjutor, and it pertains to the heirs of the coadjutor Giachini that they receive compensation, and that it is their due; moreover, the heirs of Ripamonti should not be able to claim anything for themselves. However, with this judgment, the heirs of Ripamonti were aggrieved, and in a timely manner, they brought a recourse to the Sacred Holy Council, requesting that the aforementioned judgment be declared null and void, as it was contrary to the law. Synopsis of the Dispute. The heirs of Ripamonti, in order to defend their rights, first of all noted that the priest Pacifico Ripamonti had sent a messenger to the deanery and had accepted the position of coadjutor of the archdeaconate under this condition, namely, that he should not lose anything of his revenues. Furthermore, they add that the aforementioned priest Pacifico, who, by right of patronage, enjoyed certain rights over the deanery, had been compelled to pay taxes to the treasury, incurring considerable expenses, and that he obtained, in order to recover these expenses, that he be retained as administrator for five years, provided that he chose a substitute, to whom he was obliged to pay 600 florins annually; namely, 500 florins for the choral service that the substitute provided, and 100 florins for the conventual Masses and readings, which burdened the deanery. From this, they claim, and they support this with the words of Bullae, that the archdeacon Giachini, in order to compensate his coadjutor, obligated himself to pay 600 florins annually, by title of a proper or suitable salary, from the fruits, revenues, and proceeds, and also from the daily distributions and other uncertain items of the aforementioned archdeaconate. Therefore, since, apart from the aforementioned agreements and conventions, nothing else was established regarding the coadjutorship, the heirs of Ripamonti insist that

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the aforementioned coadjutorship, like other coadjutorships, should proceed in all respects according to the customs and usages prevailing in the Chapter of Lauretana. Furthermore, they contend that among the customs and usages prevailing in the Chapter of Lauretana, the following held a prominent place: that the canons...

[*Latin ed. p. 624*]

624 LAURETANA AND RECINETEN. The coadjutors received a portion of the fines, which the Canons paid, to which the coadjutors were not entitled. This custom is confirmed by a declaration issued by the Canons during a chapter meeting held on July 3, 1889, and is further substantiated by the distribution of these fines as recorded in the official books. Although it is evident from these books that this custom originated around the year 1834, it is believed that it may have existed from even earlier times. However, definitive proof of this cannot be provided, as the books preserved in the chapter archive do not extend beyond the year 1834. Nevertheless, it is asserted that the custom of assigning fines to the coadjutors was in effect in the year 1879, and that the Archdeacon Giachini adhered to this custom, as evidenced by the fact that the coadjutor Ripamonti regularly received these fines, without any objection or attempt to claim them for himself. It is argued that the sums subsequently paid by the government in lieu of fines levied on the Canons should, in the present case, be assigned either to the coadjutor, if he were still alive, or to his heirs. This argument gains considerable weight from the fact that, during a dispute with the government initiated by the Chapter, the coadjutors did not incur any labor costs or expenses. Conversely, three coadjutors, including the Archdeacon Giachini, were unwilling to contribute to the expenses or provide labor, as was the case with the Canon Magnalbò, who was then the coadjutor of Acquacotta. Following these points, the delegates attempt to refute the judge's ruling, which stipulated that the coadjutor should only be entitled to an annual allowance of 600 livres from the revenues of the archdeaconry. They particularly object to the judge's assertion, arguing that it applies whether the discussion concerns the revenues of the canonry or other uncertain matters, but not to the choral fines, which, by custom, are assigned to the coadjutors. If this were not the case, then...

[*Latin ed. p. 625*]

LAURETANA AND RECINETEN. 625. It is understood that no coadjutor, whether in the Chapter of Lauretana or in any other Chapter, should receive any of the aforementioned allowances; and this should hold true notwithstanding any contrary custom that may have been established. Indeed, in all coadjutor bulls, and specifically in the bulls of the canonical coadjutors Andrenelli and Magnalbò, it is stated that all and every fruits, revenues, and proceeds, certain and uncertain, and also daily distributions

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of any kind, and all other emoluments, belong to the canonical coadjutor. However, despite this, they assert that both Andrenelli and Magnalbò have received portions of the allowances paid by the governing Chapter. From this, they deduce that the phrase "daily distributions" as expressed in the bulls should be understood as referring to the daily distributions that the Canons receive by virtue of their presence in the choir, and that these distributions are due to the coadjutors, as if they had been regularly received by them in fact; or that these distributions should be understood as being derived from the negligence of other Canons, and that these are rightfully due to the coadjutors according to customary law. They claim that custom has such force that it must be observed, even if the words of the disposition were inappropriate, and even though the meaning derived from it was improper and not legally binding. Sacred Roman Rota, decrees 85, and also decrees 256 and 608, before Buratto. Therefore, since such a custom regarding the distribution of choral allowances exists in the Chapter of Lauretana, it should spontaneously and entirely be observed, even if the bull, by which the priest Ripamonti was named coadjutor to the archdeacon Giachini, appears to state the contrary. Given this custom, the heirs of Ripamonti observe that if the archdeacon Giachini had also intended to retain the allowances for himself, he should have expressly cautioned about this in the agreement made with the coadjutor. Since he made no mention of this, but rather allowed the allowances to be regularly assigned to the coadjutor, he thereby admitted, by his actions, what Barbosa states: "Axiomatics, book 13, chapter 10, example 1," Acts, Volume XXIII, page 274, line 40.

[*Latin ed. p. 626*]

626 LAURETANA ET RECINETEN. Namque, observantia quae contractui subsequuntur, omnia defecta suppleant et omne dubium auferant. Praeterea, observantes quod si verba Bullarum tam stricte interpretanda essent, ut iudex delegatus contendit, certe non posset intellegi quomodo coadiutores in Capitulo Lauretano, perpetuo perceperunt fallentias contra litteram Bullarum, quae praescribunt ut distributiones coadiutori tribuantur; similiter, non posset intellegi quomodo archidiaconus, dum adhuc vitae usu frugebatur, toleraret ut fallentiae a coadiutore Ripamonti perceperentur; tandem, non posset intellegi quomodo archidiaconus Giachini et alii coadiuti, litteram gubernio a Capitulo motam misissent, et permisisset ut, loco ipsorum, coadiutores iudicium susciperent et expensis obnoxii essent. His et aliis consideratis, concludunt posthuma haeredum Giachini praetentia nullum solidum fundamentum habere; ideoque sententiam a vicario generali Recineten, ipsorum favore prolata, utpote iniustam, nullam atque irritam renunciandam esse.

IURA HAEREDUM GIACHINI. Contra, haeredes Giachini primo loco contendunt argumentum ab adversariis a consuetudine deductum, vi

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cuius sibi asserunt suppressorum canonicatus fallentias a gubernio solutas, nullo valido fundamento inniti. Idque ex eo arguunt quod consuetudo ab ipsis tantopere magnificata, dato quod reapse extiterit, paucis abhinc annis coeperit. His addunt satis non esse ut in libris capitularibus innotetur hic vel illic coadiutor percepsisse exiguam quotam fallentiarum choralium ac distributionum canonicatus, qui per paucis mensibus vacans extiterat; sed requiri ut veteres canonici adhuc viventes exquirantur. Porro, ex his aliquos adducunt, qui ex facto vel proprio vel alieno declarant coadiutos huiusmodi fallentias ac distributiones ex mera liberalitate cessisse. Quo posito, adducunt vulgatum iii iure esse quod voluntarias nulla datur praescriptio. Verumtamen obiectae consuetudinis existentiam opponunt...

[*Latin ed. p. 627*]

LAURET AND RECINETEN. 627 gnant observe, that in the chapter books, no trace of such a custom can be found, not a word nor a hint. Moreover, if the coadjutors Andrenelli and Magnalbò received distributions from the suppressed canonical benefices, it happened because the titular canons, out of generosity, ceded their portions, knowing that the coadjutors received no compensation for the services they constantly rendered. However, such a cession of distributions, or any other kind of revenue, in favor of the coadjutor Ripamonti, could not have taken place through the coadjutor Giachini, because the coadjutor Ripamonti received annual sums of 500 livres from the coadjutor Giachini. Therefore, it is urgent that the coadjutor Ripamonti should be obligated to return the sum of money, which, apart from the 500 livres agreed upon, had been given to him by the Syndic of the chapter. And this even more so, because the archdeacon Giachini, living far from the place of the benefice, was completely unaware of the arbitrary and unconsulted distributions made by the Syndic of the chapter. However, conceding for the moment that the custom, as it is claimed, can be maintained, it is nonetheless argued that it cannot be extended to the distributions of the suppressed canonical benefices, because at the time when the alleged custom arose, which occurred in the year 1867, the suppression of benefices was not yet in effect, and no agreement could have been devised concerning it. Especially if one considers that the distributions of these suppressed benefices were not paid to the Chapter until the month of June of the year 1885. And it cannot be presumed that those who introduced this much-vaunted custom intended that the coadjutors should receive a portion of the distributions from 30 suppressed benefices, which, when taken together and without deductions for expenses, amount to a sum of 124,000 livres. And this presumption is made even stronger, when we consider that we are dealing with a new and unusual matter, which therefore could not have been foreseen, and of which there is no mention in canon law. Indeed, it is confirmed by the practice of the Holy See, which concerning

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the benefices...

[*Latin ed. p. 628*]

628 LAURETANA ET RECINETEN. Considering that these matters arise during vacations and require a decision, it is necessary that mention be made of them. From this, they deduce that the commonly held principle of law can be invoked: "A matter comes to a state from which it could not have originated." Thirdly, they observe that it is undoubtedly the case that any new revenue arising from a benefice must accrue to the holder of the benefice, or the titular, since he has the right to it in law, and not to the coadjutor, who is called a canonical assistant in law. Therefore, it is incumbent upon the coadjutor to demonstrate that he has sent notice of this revenue, either tacitly or expressly, to the coadjutor; for it is not the duty of the possessor to prove it. However, the evidence presented to demonstrate this has been challenged by the canons living there, with whom the custom is said to have begun, and thus the right of the archdeacon G-iachini is increasingly confirmed, and the burden of proof rests with the coadjutors. With both sides having presented their arguments to the fullest extent, the following question was to be resolved: Whether the sentence issued by the Vicarius generalis of Recineten, as a delegated judge, on April 18, 1890, should be confirmed or rejected in this case?

RESOLUTION. The Sacred Congregation of Bishops and Regulars, after discussion on February 27, 1891, decided as follows: Affirmative to the first part, negative to the second.

FROM WHICH THESE CONCLUSIONS ARE DRAWN:

I. A coadjutor, upon receiving a canonry or a portion in the Cathedral or Collegiate Church, with the intention of obtaining the dignity, cannot regularly make his own daily distributions, but must rather make them for the coadjutor.

II. Nevertheless, in determining such matters, it is necessary to examine either an agreement between the parties or the tenor of the Bullae, in accordance with the general rule stated above.

[*Latin ed. p. 629*]

LAURETANA ET RECINETEN. 629. A convention between the parties, or by the disposition of a Bull, may derogate from [a previously established agreement]. III. However, if, in a matter where a sum of 600 livres has been assigned to the coadjutor Ripamonti by the Bull, to be paid from the fruits, revenues, and proceeds, and also from daily distributions and other uncertain sources of the archdeaconate, it should be presumed that said sum was agreed upon between the parties before the aforementioned petition was presented. IV. Therefore, no right remains to the coadjutor

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Ripamonti to claim any portion of the fruits, especially those derived from daily distributions. V. As with a general law, so too can a legitimately established custom be derogated from by a convention between the parties or by the disposition of a Bull. VI. A custom, whether lacking conclusive proof, or if the acts upon which it is based proceed from mere liberality, is not to be considered. VII. It obtains its force from the will of those acting, and therefore cannot extend to those things which could not have been foreseen or conceived. VIII. Any new revenue derived from a benefice must accrue to the full possessor of the benefice. -ss^CH«*- RHEDONEN. JURISDICTION. On February 27, 1891. SUMMARY OF THE CASE. The priest E. Garnier, from the diocese of Rhedonen, in a petition presented to the Sacred Congregation of Bishops and Regulars on April 26, narrates that from a young age he left the diocese of Rhedonen, to pursue studies in more humane letters elsewhere; then he was received among the novices of the Society of Jesus, where he engaged in philosophical and theological studies; which.

[*Latin ed. p. 630*]

630 RHEDONEN. It is reported that he served for several years in the office of master, and finally, in the month of August of the year 1870, he was ordained to the priesthood by the Most Reverend Zanguillot, a delegate of the same Society to the Sacred Missions. Furthermore, he stated to the Society of Jesus on September 8, 1879, that he was in good health, and from that day forward, he belonged permanently to the secular clergy. However, since he could not obtain any office in the Diocese from the Archbishop of Orense, nor testimonial letters, indeed not even the faculty to celebrate the sacraments, he requested that the Holy Office declare whether the decree of the Holy Office of March 6, 1864, which was addressed to the Bishop of Tarvisium, could be applied to him: namely, that a priest of the Institute of Charity, by a grant of perpetual secularization, would return under the jurisdiction of the Bishop of his origin; and therefore, whether, by his departure from the Society of Jesus, he had, by that very fact, returned under the jurisdiction of the Bishop of his origin.

Synopsis of the Discussion. It has been observed, according to the superior rules, which are properly called religious orders, that it is permissible for their regular subjects to receive testimonial letters for the purpose of being promoted to all the sacred orders, as stated in Chapter 6, "De Privileg," and in the Council of Trent, Chapter 10, Session 23, "De Beneficiis." However, it must be understood that this is under the condition that the laws and prescriptions of the decree of Clement VIII of the year 1596 are observed, as well as the Constitution of Benedict XIV, "Impositis nobis" of February 27, 1747, in which it is decreed that such dismissal letters must be presented to the local Bishop in which the religious house is located. And if the Bishop is absent, or if the sacred order does not take place at that

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time, the dismissal letters may be presented to any Catholic Bishop; provided that the aforementioned letters contain the reasons for the dismissal, as well as the attestation of the Vicar, or the Chancellor, or the Bishop's secretary, in whose territory the religious house is founded.

[*Latin ed. p. 631*]

RHEDONEN. 631 Besides religious orders properly so-called, certain institutions also enjoy these privileges, namely those which make simple, but perpetual, vows. Other institutions, however, are subject to common law, or to those regulations which Innocent XII prescribed in his Constitution *Speculatores*. Furthermore, since the decree cited by the priest Garnier concerns the Congregation of Charity of Venice, and since this Congregation, because it does not enjoy these privileges, is subject to the Bishop in all matters which are not approved by the Holy See, as appears from the resolutions of the Sacred Congregation of Rites of December 30, 1757, and December 15, 1826, it follows that students of this institution cannot, according to the venerable Constitution of Innocent XII, be promoted to the sacred orders, unless the dismissal letters of their own Bishop precede. Therefore, in order to implement the aforementioned Constitution, the Bishop of the place of origin or legal domicile must suspend his jurisdiction as long as the religious remains in the institution; but this jurisdiction revives once the religious has either left the institution voluntarily or has been dismissed from it. Thus, in Treviso, in response to the fourth question: "In these two cases, do those who leave the institution, either by resignation or dispensation, fall under the jurisdiction of the Bishop of the place where the house is located, or rather, under the Bishop to whom they were subject before being assigned to the institution?", the Sacred Congregation rightly responded: "No, to the first part; yes, to the second." However, because the aforementioned resolution soon gave rise to false interpretations, which the aforementioned Bizzarri sought to correct in his *Collectanea* on page 712, the following words were brought to light, which read as follows: "From this resolution concerning the fourth question, it appears that it is not in accordance with the law for those prelates to refuse to receive into their dioceses students of an institution of simple vows, who previously belonged to those same dioceses, and who are then dismissed from the institution or congregation, or who have obtained a dispensation from those same vows, solely on the grounds that..."

[*Latin ed. p. 632*]

632. RHEDONEN. Quidam, cum professionem emitterint, licet antea sub iurisdictione Episcopi fuerint, [tamen] non sunt obnoxii eius iurisdictioni. Nec potest contradici praxi Sacrae Congregationis, quae servatur in concedendis indultis saecularizationis ad Professos votorum solemnium, pro quibus, ordinarie loquendo, Sacra Congregatio requirit consensum

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Episcopi, qui recipiendum est; nam Professi votorum solemnium, propter statum permanentem, quem amplexi sunt, perpetuo a iurisdictione Episcoporum omnino subtrahuntur, quod locum non habet quoad Professos votorum simplicium, qui dimitti et dispensari solent. "Dixi ordinarie loquendo, quia Sacra Congregatio aliquando, si gravis causa concurrat, Episcopos coegi ad recipiendos in suas dioceses saecularizatos, qui ante professionem suam iurisdictioni subierant." Hoc tamen raro admodum factum est durante meo munere, licet Sacra Congregatio super statu regularium declaret posse, ad effectum reformationis Ordinum Regularium obtinendae, etiam invitis Episcopis, saecularizationes concedi, caute tamen et prudenter, cum peculiaribus rerum adiunctis perscrutatis. Hisce generatim praehabitis, tum quoad Instituta votorum simplicium, tum quoad Professos votorum solemnium, de Societate Iesu consideratum est, ipsam, sive decreto Clementis VIII, sive constitutioni Benedicti XIV, quae ceteros Ordines Religiosos obligant, obtemperare non teneri. Sed constitutione Gregorii XIII diei 22 Septembris 1582, regi et gubernari, qua indultum fuit, ut clerici praedictae Societati adscripti, praevio Superiorum consensu, etiam in sacris ordinari valerent a quolibet Episcopo catholico, quin necesse foret, ut inquisitio de idoneitate et de ceteris ipsorum requisitis institueretur. Et huiusmodi privilegia tam a Gregorio XIV, quam a Paulo V confirmata fuisse; at non raro contingere, ut clerici dictae Societatis cum vota tantum simplicia emitterint, facultatem a superioribus suis obtineant Societatem ob peculiares causas derelinquendi, vel ut ab ipsis superioribus ex iustis causis e Societate dimittantur, licet ad presbyteratus ordinem promoti fuerint.

[*Latin ed. p. 633*]

RHEDONEN. 633 Having these matters noted, it was deemed wise by the judgment of the most prudent Fathers of Orense to resolve the following question: Whether and in what manner a Priest, belonging to the Archiepiscopal jurisdiction of Rhedonen, is subject to the authority of the Ordinary of originis. RESOLUTION. The Holy Congregation of Bishops and Regular Canons, having carefully considered the matter, on February 27, 1891, decided to respond to the proposed question with an affirmative answer, as follows: Affirmative, according to the Ordinary of originis. FROM WHICH THE FOLLOWING ARE DERIVED: I. From the Council of Trent, Session 23, Chapter 10, concerning the Reform of the Superiors of Religious Orders, in which solemn vows are made, it is understood that they have the faculty of issuing dismissal letters to their own regular subjects, so that they may be advanced to all the sacred Orders. II. However, with this limitation, namely, that the provisions of the decree of Clement VIII of the year 1596 and the Constitution of Benedict XIV, *Impositis nobis* of February 27, 1747, must be observed, in which it is prescribed that dismissal letters must be presented to the Bishop of the place in which the religious

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house exists. III. In the absence of the Bishop of the place, or in the case where sacred orders are not conferred, dismissal letters may be presented to any Catholic Bishop, provided that mention is made in such letters of the reasons for the dismissal, and that they are attested by the Vicar, or Chancellor, or Secretary of the Bishop of the place in which the religious house exists. IV. This privilege extends, besides the Religious Orders of solemn vows, also to certain Institutes in which simple but perpetual vows are made. V. Other Institutes are subject to the provisions of common law, or are bound by what is prescribed in the Constitution *Speculatores* of Innocent XII. VI. It is not in accordance with the law for those prelates to refuse to receive into their dioceses students of any Institute of simple vows who previously belonged to those same dioceses, and who are then dismissed from the Institute.

[*Latin ed. p. 634*]

634 RHEDONEN. Those who are dismissed from, or by, a Congregation, or who have obtained a dispensation from their vows, are so only for the reason that they have entered a profession in some other Institute, even though previously they were subject to the jurisdiction of that Congregation. VII. In granting indulgences for secularization to solemnly professed religious, generally speaking, the acceptance of the benevolent Bishop is required by the Sacred Congregation, because, due to the permanent state they have embraced, they are entirely removed from the jurisdiction of the Bishop in perpetuity; this, however, does not apply to those who have made simple vows, who are often dismissed and granted dispensations. VIII. However, in the presence of grave reasons, Bishops may be compelled to receive into their dioceses those who have been secularized, who were previously subject to their jurisdiction before their solemn profession. IX. The Society of Jesus, nor the decree of Clement VIII, nor the Constitution of Benedict XIV, are bound by this; but they are subject to the Constitution of Gregory XIII of September 22, 1582, by which superiors were granted the permission to have their clerics ordained by any Catholic Bishop, without any inquiry being made into their suitability or other requirements; and such privileges have been confirmed both by Gregory XIV and by Paul V. Regarding the religious habit and the condition of Institutes, the same is not prescribed. The Catholic Church has it as its absolute duty to constantly direct all its efforts, both to fostering Christian piety and to eradicating vices. Hence, in our time, not only have true religious congregations greatly benefited the Christian and civil society, but also other pious societies of the faithful have been formed, which follow the evangelical counsels and perform works of charity with greater freedom, from which, due to the wickedness of the times, religious families are either almost or entirely prohibited. Now, since these pious societies of the faithful, just like true religious congregations, have been praised by the Holy See, and their statutes

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approved, and moreover, new societies of this kind—

[*Latin ed. p. 635*]

FROM THE SACRED CONGREGATION AND REGULATION 635: The methods for approval were requested, concerning the nature of these societies, and whether the Holy See should begin to grant approval to them. For this reason, in the general Congregation of Cardinals of the Sacred Congregations for Bishops and Regulars, by mandate of His Holiness, Pope Leo XIII, these two questions were posed: I. Whether it is fitting that the Sacred Congregation for Bishops and Regulars grant a decree of praise or approval to those institutes, which, besides sisters living in community, have strict, simple, temporary, or perpetual vows, while other sisters live in their own homes, and do not bear any external sign that they are members of a regular institute? II. Whether it is fitting that the same Sacred Congregation grant a decree of praise or approval to those institutes, whose members, even if they live in community, do not bear any sign of the same institute, so that the nature of the institute might be concealed? Furthermore, in a plenary Congregation held in the Apostolic Palace at the Vatican on June 21st of the year 1889, the Most Eminent Fathers decreed: The Sacred Congregation, when it praises or approves institutes of this kind, even under the express name of the Congregation, intends to praise or approve not as formal religions with solemn vows, nor even as formal or true religious congregations of simple vows, but only as pious societies, in which, besides other things that are desired according to the discipline of the Church today, neither a religious profession properly so-called is emitted, but vows, if any are made, are privately taken, not publicly with the legitimate superior of the Church. This society, moreover, is praised or approved by the Sacred Congregation under the essential condition that it fully and perfectly demonstrates to the respective Ordinary, and is entirely under his jurisdiction. Finally, the members of these societies, although they do not wear a regular habit, must nevertheless take care that in themselves there is not... the adornment of clothing (1 Peter 3:3), nor anything that might offend, but what is fitting for religious persons, promising piety through good works (1 Timothy 2:10); let them beware lest what is concealed by the spirit of prudence degenerate into a culpable simulation through the prudence of the flesh. This decree was ratified by His Holiness and confirmed.

[*Latin ed. p. 636*]

636 From the Sacred Congregation of Bishops and Regulars, and the Registry, it was confirmed, and it was ordered to be included in the statutes of institutions of this kind, after a hearing was held with the Cardinal Prefect of the aforementioned Sacred Congregation of Bishops and Regulars on August 11, 1889. I, CARD. VERGA, PREFECT. FR. ALOYSIUS, BISHOP OF CALLINICAE, SECRETARY. FROM THE SACRED CONGREGATION

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FOR RITES OF COMPOSTELLANA. Doubts regarding the holy oils and the Most Holy Eucharist to be preserved. The Most Reverend Lord Joseph Maria Martin de Herrera and de la Iglesia, Archbishop of COMPOSTELLANA, requested a suitable declaration from the Sacred Congregation for Rites, namely: — 1. During pastoral visitations, it has been observed in many filial churches, or chapels, that the Most Holy Eucharist is reserved, where Mass is celebrated only on Sundays, or when the sacred Viaticum is taken to the sick; no one goes there, and the doors remain closed for the rest of the time, except for the sacristan to light the lamp; hence the question: — Can the Sacrament of the Most Holy Eucharist be thus reserved in such churches? — 2. In the same Archdiocese, it is the custom in almost all parishes that the Sacred Oils are kept in the house of the parish priest, which is attached to the church, so that they may be readily available for the sick. Can this practice be tolerated, especially in countries where the parish priest's house is adjacent to the church? — And the same Sacred Congregation, at the earnest request of another, was thus decreed, namely: — To 1. Negatively, unless for a few days.

[*Latin ed. p. 637*]

FROM THE SACRED RITUAL: The hours of access shall be opened to the faithful: Regarding the matter, on the fifth day of August, in the year 1872, to the faithful, it is granted: The Most Holy Decree 637, concerning the visitation of the Eucharist in Toledo, on the thirty-first of August. And thus it was declared, as it was written on the first day of November, in the year 1890, by His Eminence, Cardinal Aloysius Masella, Prefect of the Sacred Congregation. The aforementioned decree, in Toledo. Question V: Can parish priests retain the Holy Oil of the Sick in their own homes, if they reside outside the parish church, notwithstanding the decrees of the Sacred Congregation of Rites? Answer: Negatively, and the decree of the sixteenth of December, in the year 1826, in Gandavensi, III, is to be observed. The decree of the sixteenth of December, in the year 1826, in Gandavensi, III, states: "Priests, exercising the care of souls, retain the Holy Oil of the Sick with them for their convenience, in their own homes. Given this custom, can they licitly continue this practice? To the question posed in III: Negatively, and the Roman Ritual is to be observed, except in the case of a great distance from the church; in which case, the rubric regarding honest, decent, and safe custody is also to be observed, even at home." FROM THE SACRED CONGREGATION OF INDULGENCES, in Pictaviensis, concerning the manner of using the formula in the imposition of scapulars. The Rector Dean of the Church of the Blessed Virgin Mary of Berchorio, in the Diocese of Pictaviensis, presents this question to the Sacred Congregation

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of Indulgences:

[*Latin ed. p. 638*]

638 FROM THE SACRED CONGREGATION FOR INDULGENCES: Sometimes, the imposition of scapulars approved by the Church is prolonged to such an extent that it causes tedium for the people and fatigue for the priest, especially after the First Communion of children or during missionary exercises, because then many people come to receive these sacred habits; and so that this inconvenience might be avoided, it would be permissible for the priest to say the formula in the plural number only once, imposing the scapular successively upon all those present, without any interruption, and thus to accomplish a single and complete act. Therefore, the aforementioned Rector proposes the following question to be resolved: Whether it is permissible for a priest, in the imposition of scapulars approved by the Church, after all things have been properly performed, to say the formula in the plural number only once: "Receive, brothers, or sisters, etc.," imposing the scapular successively and without interruption upon all those present; or rather, must the singular number formula be repeated for each individual? The Sacred Congregation for Indulgences and Sacred Relics responded to the question as follows: "Affirmatively regarding the first part; negatively regarding the second, as decreed in a document of the same Congregation on the 5th of February, 1841, in question IV." Given from the Secretariat of the same Sacred Congregation on the 18th of April, 1891.

I. O. S. CARD. D'ANNIBALE, PREFECT.

L. S. ALEXANDER, ARCHBISHOP OF NICOPOLIS.

Secretaries.

[*Latin ed. p. 639*]

639 FROM THE SACRED CONGREGATION OF THE INDEX, DECREE, Saturday, April 25, 1891. The Holy Congregation concerning the Index of Prohibited Books, of the Roman Republic, under the authority of the Most Holy and Undivided Apostolic See, having heard and considered, and with the consent of the Cardinals and other delegates present, concerning the doctrine and the purging and prohibition of books, has decreed and commands as follows: To the Most Reverend and Most Eminent Fathers, to be referred to the Index, all the following works: *Explicações ao Público a propósito do incidente ocorrido entre o Excellentíssimo e Reverendíssimo Senhor Bispo Conde e a Faculdade de Theologia da Universidade de Coimbra,* by Dr. Manuel De Azevedo Araujo e Gama. — Coimbra, 1886 (February 28). — Decree of the Sacred Office: Thursday, July 2, 1890. *A

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Faculdade de Theologia e as doutrinas que ella ensina,* by Padre José Maria Rodrigues, quintanista of Theology. — Coimbra, 1886. — Same Decree. *Análise crítica do libello accusatório que o Excellentíssimo e Reverendíssimo Senhor Bispo Conde redigiu contra a Faculdade de Theologia da Universidade de Coimbra,* by Manuel de Azevedo Araujo e Gama. — Coimbra, 1888. — Same Decree. *A Sagrada Congregação do Concílio e os direitos do Senhor Bispo Conde sobre a Universidade de Coimbra.* New edition of a recent document, preceded by some considerations.

[*Latin ed. p. 640*]

640 Sacred Roman Universal Inquisition, by Dr. José Maria Rodríguez Lente, substitute professor of Theology at the University of Coimbra, Faculty of Theology, 1889 (October) — Decree. Authors have commendably submitted themselves. Giuseppe Toscanelli, Deputy to Parliament. — Religion and Fatherland, opposed by the Pope; Italy must defend itself. — Florence, Fratelli Bocca publishers, Turin - Rome; 1890. — Decree of August 13, 1890. Therefore, no one, of whatever degree or condition, shall dare to publish, or to have published, in any place and in any language, works of this kind, but shall be obliged to deliver them to the Ordinary of the place, or to heretical inquisitors, under the penalties prescribed. These [things] are approved by the Most Holy Pope Pius XIII, and by the Lord, in whose faith I, below, have signed, and have approved the aforementioned Decree, to be promulgated, April 1891. LEON CAMILLUS Card. MAZZELLA, Prefect. Fr. HYACINTHUS FRATI, Order of Preachers, Sacred Congregation of the Secret. "Place" [with seal]. On the 20th day of April of the aforementioned year 1891, this Decree was affixed and publicly published in the City. Vincentius Benaglia, Magistrate.

[*Latin ed. p. 641*]

641. ENCYCLICAL LETTERS of the Most Holy Pope Leo XIII concerning the condition of workmen. Once aroused by the allure of new things, which for a long time agitates nations, it was inevitable that the study of transformations and changes would lead to a connection between political and economic matters. Thus, the growth of industry and the development of new arts, the altered relationships between masters and workmen, the abundance of wealth in a small number, the poverty in a multitude, the increased confidence of workmen, and their closer interdependence, and furthermore, the corruption of morals, have brought about a certain and evident need for reform. At this critical juncture, it is clear that minds are filled with acute expectation, and that the efforts of doctors, the deliberations of wise men, the voices of the people, the judgments of legislators, the counsel of princes, and even the intervention of divine power are sought, so that a solution may be found to this problem, which holds the attention of men so strongly.

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Therefore, with the cause of the Church and the common good in mind, and following the practice we have previously observed, Venerable Brothers, having already issued letters concerning the authority of the State, human liberty, the Christian constitution of society, and other matters of a similar nature, which seemed opportune for refuting false opinions, we now deem it necessary to address the condition of workmen for the same reasons.

We have touched upon this subject on several occasions. However, in these letters, we intend to treat the entire matter with the awareness of our apostolic duty, so that principles may be established by which, as truth and justice demand, a solution may be found to this dispute. The matter is difficult and not without danger. It is indeed arduous to define the rights and duties that must be observed by the wealthy and the working class, by employers and employees. Moreover, the controversy is dangerous, since it is often exploited by turbulent and cunning men to pervert judgment and incite seditious crowds. Nevertheless, it is plainly evident that all agree that the condition of men must be addressed promptly and appropriately, since a large part of the population is plunged into miserable and undeserved misfortune. For the ancient guilds of artisans, destroyed in former centuries, and with no record...

[*Latin ed. p. 642*]

642 The letters [LITTERAE] attest that, despite the support of the local authorities, and although the laws and institutions of the Republic ostensibly protected religious life, it gradually came to pass that artisans and laborers were betrayed by the insatiable greed of their masters and the unbridled cupidity of competitors. — The evil of usury, which has been repeatedly condemned by the judgment of the Church, is nevertheless practiced by avaricious and ambitious men under a different guise: to this is added the concentration of all businesses and affairs in the hands of a few, so that the wealthy, through their power, have imposed an endless yoke of servitude upon the vast multitude of the poor. Today, those who advocate this evil, the Socialists, motivated by envy of the poor towards the wealthy, contend that private ownership of property should be abolished, and that, in its place, common and universal ownership of all goods should be established, managed by those who hold power in the municipality or who govern the entire republic. Such a transfer of property from private to communal ownership is, in their opinion, a means of equitably distributing resources and benefits among the citizens. But this reasoning is so flawed that it harms the very craft itself: moreover, it is profoundly unjust, because it deprives those who possess nothing of their legitimate rights, it perverts the functions of the republic, and it undermines the foundations of society. It is easily seen that the work undertaken by those who engage in any profitable art is, in itself, a cause and a goal; the craftsman looks to his work as a means of

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acquiring something for himself, something that he can rightfully possess and use for his own benefit. For if a craftsman lends his skills to another, he does so with the intention of acquiring the means necessary for his sustenance and well-being; therefore, he seeks not only to receive a just reward for his labor, but also to secure a future for himself. If, however, he has invested capital, and has placed a portion of his wealth, as much as he can, in property, that property is nothing other than a form of commerce, albeit in a different guise: therefore, just as the craftsman's fund is under his control, so too is the portion of his earnings that he acquires through his labor. But in this very thing, as is easily understood, lies the essence of ownership, whether of movable or immovable property. Therefore, when the Socialists advocate the transfer of private property to the common good, they are, in fact, making the condition of all laborers worse, because...

[*Latin ed. p. 643*]

643. Letters [are] those by which, having the freedom of reward removed, men are despoiled, with the very hope of increasing the family estate and acquiring advantages for themselves. But, what is more, they propose a remedy, openly contending for justice, because the right to private property is a right given to men by nature. Truly, this difference is the greatest between man and the rest of the animal kingdom. For beasts do not govern themselves, but are governed and ruled by a double instinct of nature: first, to protect themselves and to develop their abilities, and second, to arouse and determine the movements of each individual. By the one instinct, they are led to preserve their own lives; by the other, to the preservation of their species. Both, however, attain their ends by the use of things present and available: and they could not, indeed, proceed further, since they are moved only by sensation and by perceptions of individual things.

Far different is the nature of man. In him is contained the entire and perfect power of animal nature, and therefore it is fitting for man, no less than for the entire animal kingdom, to enjoy the goods of material things. But animal nature, however much it may be possessed, is so far from circumscribing human nature, that it is far inferior to human nature, and ought to be governed and subjected to it. What excels and surpasses us is that which is given to man, and which distinguishes him from all other animals: namely, the mind or reason. And because it is only this animal that participates in reason, it is necessary to grant to man not only the use of things, which is common to all animals, but also the right to possess them permanently, not only those which are consumed in use, but also those which, when used by us, remain. This is made even more evident if we consider human nature more deeply.

For man, comprehending countless things by reason, and adding to and connecting present things with future ones, and since he is the master of

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his own actions, he is subject to eternal law, and to the most provident government of God; he governs himself by the providence of his own counsel: therefore, it is fitting for him to choose what is most suitable for him, not only for the present, but also for the rest of time, and he judges what is most fitting. From this it follows that it is not only fitting for man to possess the fruits of the earth, but also to have dominion over the earth itself, because the earth offers its fruits to him for the sake of the future.

[*Latin ed. p. 644*]

644 Necessary things. These are those things which are essential to the needs of each individual, like perpetual revenues, so that those fulfilled today demand new ones for tomorrow. Therefore, nature must have given to man some stable and perpetually renewable resource, from which a lasting provision might be expected. But this very provision cannot be maintained unless the land itself is fertile. Nor is it necessary to introduce this into the republic; for man is older than the republic; therefore, by nature, he is obligated to care for his own life and body before any state is established. It is indeed true that God gave the land to the entire human race to be cultivated and enjoyed, but this does not in any way harm private property. For it is said that God gave the land to the human race in common, not because He intended that all should have dominion over it promiscuously, but because He assigned to each a portion to possess, and He permits the description of private property through the industry of men and the laws of nations. Moreover, whatever distribution there may be among private individuals, the land does not cease to serve the common good of all, for no mortal is such that he does not require something from the land. Those who lack it, obtain it through labor; thus, it can truly be said that the entire system of acquiring sustenance and necessities consists in labor, whether it be through working the land itself, or through some other laborious activity, through which one obtains what is needed, as is the case with the fruits of the earth, which are exchanged and bartered. This, in turn, demonstrates that private property is plainly in accordance with nature. Things that are necessary for the preservation of life and for the perfection of man are indeed provided by the land, but the land itself cannot be cultivated and maintained without the labor and care of men. Indeed, as man applies his mental and physical energies to the cultivation of the land's resources, he thereby applies to himself that very part of nature which he has cultivated, and he leaves upon it, as it were, the imprint of his own person; therefore, it is clear that this part must be possessed and used as his own, and that it is not permissible for anyone to violate it in any way. It is therefore astonishing that some of the ancients, whose opinions are often cited, should disagree with this, granting to private individuals the sole right to the soil, and to various fruits of the land. But it is plainly more just that the land, or at least the soil in which one has built, or the property

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which one has cultivated, should be possessed by the owner.

[*Latin ed. p. 645*]

LETTERS 645 deny this. Those who deny it do not see that they are defrauding the laborer of the fruits of his labor. For the land, when cultivated, changes its nature and produces a long-lasting effect: a wild field becomes fertile and productive. But those things by which it is made better are so deeply mingled and incorporated into the soil that, for the most part, they cannot be separated from it. But is it just that anyone should profit from that in which another has toiled? Just as the effects follow the causes, so it is right that the fruits of labor should belong to those who have labored. Therefore, the entire human race, though the opinions of a few dissent, diligently observes the natural law, finding the foundation of the division of goods and private property in the very law of nature, so that all things may be most suitable for the peace and tranquility of men, according to the usage of all ages. — But civil laws, which, when just, derive their virtue from the natural law, as we have said, confirm and even enforce it. — The authority of divine law also sanctions this, forbidding even the desire for another's possessions with the greatest severity. "Thou shalt not covet thy neighbor's wife, nor his house, nor his field, nor his ox, nor his ass, nor anything that is his" (1). Indeed, such laws, which are inherent in every man, are all the more valid when considered in relation to the duties of men in domestic life and their connections to it. — There is no doubt that in the choice of a way of life, each individual has the power and the right to choose, whether to follow the example of Jesus Christ in virginity, or to bind oneself with the marital bond. To take away from man the natural and original right of marriage, or to circumscribe the principal cause of marriage, which was established by the authority of God from the beginning, no law can prevent. "Increase and multiply" (2). Therefore, the family, or domestic society, though small in itself, is a true society, and older than any state; and therefore, its own rights and duties are necessary, and it is in no way dependent on the republic. What we have demonstrated, that the right of ownership is naturally given to individual persons, it must be transferred to the man, who is the head of the family; and so it is.

(1) Deuteronomy v. 21.

(2) Genesis 1. 28.

[*Latin ed. p. 646*]

646 It is most fitting that the law be more stringent concerning those who are bound by domestic ties. The most holy law of nature dictates that the father of a family should provide for the sustenance and every need of those whom he has procreated. Furthermore, nature itself leads us to understand that it is the duty of parents to inquire into and provide for the needs of their children, since these children, by their very nature, are dependent

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and, in a certain way, produce a person; and they can only be defended from the misfortunes that may occur in the course of life through the transmission of valuable possessions, which is done by bequeathing them an inheritance. — Just as the state, as we have noted, is a true society governed by its own authority, that is, paternal authority, so too the family, subject to the limitations prescribed by the needs of its own cause, possesses certain rights in common with the civil society, namely, the rights necessary for the safety, just liberty, and well-being of its members. We have said "certain rights," because the family, being a human society bound together by ties of affection and, in some respects, preceding the civil union, possesses rights that are more natural and derive from its own duties. Therefore, just as citizens, if they are members of a family, participate in the human society and, for the sake of mutual assistance and the protection of their rights, must contribute to the common good, so too the family must, in turn, respect the laws of the state. It is, therefore, a great and pernicious error to desire that civil authority should encroach arbitrarily upon the domestic sphere. — Certainly, if a family should, through some great difficulty or lack of resources, find itself unable to provide for its own needs, it is right that public assistance should be provided in extreme cases; for the family is, in a certain sense, a part of the state. And just as it is the right of each individual to have his rights vindicated if a serious disturbance of those rights occurs within the family, so too it is the duty of public authority to protect and uphold the just rights and due protection of the family. This, however, is the limit that must be observed by those who are concerned with public affairs; to exceed this limit is not permitted by nature. Parental authority is of such a nature that it cannot be extinguished or absorbed by the state, because it has in common with human life itself a fundamental principle. Children are, in a certain sense, a part of their father, and, as an amplification of the father, they are a certain person; and just as we wish, not for ourselves alone, but for the community in which we are born, to enter into civil society, so too the children, because they are naturally a part of their father... before they have the use of free will, they are subject to parental authority.

[*Latin ed. p. 647*]

LITTERAE 647: On the care of the poor (1). Therefore, those Socialists who, after parental foresight, introduce the foresight of the state, act contrary to natural justice and undermine the foundations of the family. And besides injustice, it also becomes apparent that a complete upheaval and disruption of all orders will necessarily follow, leading to a long and odious servitude for citizens. The path to mutual envy, to reproaches and discord, would be opened: deprived of the ingenuity and diligence of individuals, the very sources of wealth would necessarily dry up; and that equality, which they falsely claim, would be nothing other than the condition of

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all men being equally miserable and unknown, without any distinction. – From all of this, it is clear that the Socialist proposal to reduce all possessions to common ownership must be utterly rejected, because it harms those very people it seeks to help; it is contrary to the natural rights of individuals, and it disrupts the duties, the tranquility, and the common good of the state. Therefore, when seeking to help the poor, it must be considered above all as a fundamental principle that private property must be inviolably preserved. With this established, we will explain from where the remedy that is sought must be obtained. We confidently approach this argument, and we are certain that, because of the nature of the cause, it will not find a favorable outcome unless it is advocated by the Church. Since the custody of religion, and the powers pertaining to the Church, are most properly entrusted to us, we would seem to neglect our duty if we remained silent. – Indeed, the efforts and endeavors of others are also desired in this cause: we understand the efforts of the leaders of the state, of the lords and the wealthy, and finally, of those for whom the contention exists, the proletariat. However, we affirm without hesitation that all human efforts will be in vain if the Church is left aside. For the Church is the one that promises doctrines from the Gospel, by which certain evils can certainly be remedied or, at the very least, made less harsh; and it is the same Church that not only instructs, but also strives to govern life and the morals of individuals with its precepts; it promotes the betterment of the condition of the proletariat with more useful institutions; it desires and seeks to unite the efforts and strengths of all orders, so that, through reason, they may work together. (1) St. Thomas, I I - I I . Quest. X, art. X I I.

[*Latin ed. p. 648*]

648 Litterae commodissime possunt, et consulari, adeamque adhiberi leges ipsas auctoritatemque reipublicae, utique ratione ac modo, putat oportere. Illud ita statuatur primo loco, ferendum est conditionem humanam: imas summis paria fieri in civili societate non posse. Agitant quidem Socialistae: sed omnis est contentio vana contraria rerum natura. Sunt enim in hominibus maximae, plurimaeque natura dissimilitudines: non omnium paria ingenia sunt, non solertia, non valetudo, non vires: quarum rerumne cessarium discrimen sua sponte sequitur fortuna dispar. Idque plane ad usum privatorum tum communitatis accomodate; indigentes enim varia ad res gerendas facultate diversis, quem munibus vita communis: ad quae fungendam opera potissimum impelluntur homines differentia reipublicae familiaris. — Et ad corpus laborem quod attinet, in ipso statu innocentiae non iners omnino erat homo futurus: at vero quod ad animi delectationem tunc libere optavisset voluntas, idem postea in expiationem culpae subirenonsine molestia sensu coegit necessitas. Maledicta terra in opere tuo: in laboribus comedes ex ea cunctis diebus vitae tuae (1). — Similisque modo finis acerbitatum

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reliquarum inter res nullus est futurus, quiamala peccati consectaria aspera ad tolerandum sunt, dura, difficilia: eaque hominumque adultimum vitae comitari est necesse. Itaque pati et perire humanum est, et ut homines experiantur ac tentent omnia, istius modi incommoda evehare ab humano convictu penitus nulla vi, nulla arte poterunt. Si qui id se profiteantur posse, si miserae plebi vitam polliceantur omni dolore molestiaque vacantem, et refertam quiete ac perpetuis voluptatibus, non illi populo imponunt, fraudem questruunt, inmala aliquando erupturammaiorapraesentibus. Optimum factu res humanas, ut se habent, ita contueri, simulque opportunis incommodis levamentum, uti diximus, aliunde petere. Est illud in causa, de qua dicimus, capitalem malum, opinio fingere alterum ordinem sua sponte infensum alteri, quasi locupletes et proletarios ad digladiandum inter se pertinaci duello natura comparavit. Quod adeo abhorret et averitate, ut contraverissimum sit, quomodo in corpore diversa (1) Gen. III, 17.

[*Latin ed. p. 649*]

LITTERAE 649: These two classes, being closely connected, give rise to a certain disposition, which, as you rightly say, is a symmetry. Just as nature has ordained that these two classes should harmonize with each other, and that each should correspond to the other in a balanced manner, so too it is necessary that they should be mutually beneficial. Indeed, one depends on the other: neither can the work, nor the reward for the work, exist without the other. Harmony produces beauty and order in things; on the contrary, perpetual conflict gives rise to confusion and disorder. Now, to resolve this conflict, and to cut off its roots, there is a wonderful power and a multitude of means available to Christian educators. And first of all, the entire discipline of religion, whose interpreter and custodian is the Church, can greatly contribute to bringing together the wealthy and the working class, by calling both orders to their mutual duties, and especially by leading them to justice. These duties concern the working man and the craftsman: whatever agreement is made regarding the work, it must be kept faithfully; in no way must one deceive or violate the person or the property of others; one must always defend one's own rights with moderation, and never resort to violence; nor must one associate with men who are flagitious, who boast of their wealth and make extravagant promises, which almost always lead to repentance and the ruin of fortunes. But these things concern the wealthy and the landowners: they must not treat the workers as slaves, but must respect the dignity of each person, and especially the noble character that is said to be Christian. If the arts, and the natural order, and Christian philosophy are considered, it is not shameful for a man to seek wealth, but rather honorable, because they provide the means to sustain life and offer honest opportunities. It is inhumane to exploit men for the sake of gain, and to value them no more than their physical strength. Similarly, it

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is necessary that the wealthy and the landowners should take into account the religion and the good of the working class. Therefore, it is the duty of the landowners to ensure that the worker has sufficient time for prayer and devotion; to prevent him from being exposed to the temptations and corruptions that lead to sin; and to avoid, by any means, distracting him from his domestic duties, his thrift, and his diligence. It is also necessary not to impose more work than a man can bear, nor to employ children who are not of an age or strength suitable for the work. But above all, the duty of the landowners is to give to each man what is his due. Indeed, there are many factors to be considered when determining the proper measure of wages, but generally, the wealthy and the landowners should remember to...

[*Latin ed. p. 650*]

650 Letters reveal that the poor and the wretched, driven by poverty, seek gain through means other than divine or human justice. To defraud anyone of their deserved wage is a great sin, which calls down the clamor of the heavens. "Behold, the wages of the laborers, which you have defrauded, cry out, and the cries of the harvesters have entered into the ears of the Lord of hosts" (1). Above all, it must be religiously avoided that anything should harm the poor, whether by force, deceit, or treacherous arts; and this all the more because they are not protected against injuries and helplessness, and their possessions, the more meager they are, the more sacred they should be held. Would obedience to these laws not extinguish the causes and effects of discord? - But the Church, with Jesus Christ as its teacher and guide, pursues greater things: namely, to lead to a more perfect state, aiming to unite one order with another through proximity, friendship, and mutual support. - We cannot understand or estimate mortal things except by considering the other life, that is, the immortal life; for if that life were taken away, the true notion of what is right would perish; indeed, the entire universe of things would become a mystery, inaccessible to any human investigation. Therefore, as we have learned from nature itself, so too is the Christian dogma, upon which the entire order and constitution of religion rests, that we will truly be victorious only when we have passed beyond this life. For God did not create man for these frailties, but for the celestial and eternal; and He gave us the earth not as a place of dwelling, but as a place of exile. It matters not whether you are rich or poor, whether you possess other things called "goods"; what matters is how you change. The various hardships with which mortal life is almost always intertwined, Jesus Christ has removed with the abundant redemption of His own; but He has inspired us with virtues, and has led us to a worthy matter, so that no mortal may fail to attain eternal rewards, unless he follows in the footsteps of the bloody Jesus Christ. "If we endure, we shall also reign" (2). Through the labors and sufferings which He freely accepted, He wonderfully demon-

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strated the power of suffering; and not only by example, but by His grace, and by the hope of eternal reward, He made the endurance of suffering easier; for what is present (1) James v, 4. (2) 2 Timothy II, 12.

[*Latin ed. p. 651*]

LITTERAE 651. The momentary and light tribulation of our life, works in the heavens with exceeding power, weighing down the eternal glory (1). Therefore, it is wrongly said that the absence of pain does not bring happiness, and that eternal happiness profits nothing, but rather hinders (2): the rich are more miserable than accustomed to the threats of Jesus Christ (3): therefore, God, the judge of fortunes, must sometimes severely render to men.

The most excellent and greatest doctrine concerning the use of riches is this, which philosophy, and indeed all schools, have taught, but the Church has perfectly transmitted, and which causes not only knowledge, but also morals, to be observed. The foundation of this doctrine is that just possession of property is distinguished from just use of property. To possess things privately is the natural right of man: and, as we saw before, this right, especially in the life of society, is not only permissible, but even necessary (4). It is permissible for a man to possess his own things. And it is also necessary for human life (4). But if it is asked, what measure of goods is necessary? The Church, without any doubt, answers: with regard to this, a man should not have external things as his own, but as common, so that he may easily share them with others in their need. Hence, the Apostle says: "Exhort I those who are rich in this world, that they be ready to give, to distribute" (5). Certainly, no one is commanded to give to others what pertains to his own use or the needs of his own family: but rather, he should give away some of what he has, and keep what is fitting for the person, and what is lacking: for no one ought to live inconveniently (6). But beyond the measure of necessity and decency, it is a duty to give to the needy what remains. "Give alms" (7). These are not duties of justice, except in extreme cases, but of Christian charity, which, indeed, is not to be sought by law, but by love. But the law of Christ, the law of God, precedes the laws and judgments of men, who in many ways discourage the habit of giving; it is more blessed to give than to receive (8).

(1) II Cor. IV, 17.

(2) Matth. XIX, 23-24.

(3) Luc. VI, 24-25.

(4) II-II Quaest. LXVI, a. II.

(5) II-II Quaest. LXV, a. II.

(6) II-II Qnaest. XXXII, a. VI.

(7) Luc. XI, 41.

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(8) Acts XX, 35.

[*Latin ed. p. 652*]

652 Letters [LITTERAE] are judged to be as worthy as the person who wrote them, whether they were composed with diligence or carelessly. As long as you have done to one of these my least brethren, you have done it to Me (1). The sum of these matters is this: whoever has received a greater abundance of the gifts of God, whether these gifts are of the body or external, or of the soul, must, for this very reason, accept them in order to, by the providence of God, use them for the benefit of others and to strive for perfection. Therefore, having a talent [talentum], let him take care not to remain silent; having abundance of things, let him be vigilant lest he be turned away from the generosity of mercy; having an art by which he is governed, let him strive greatly to share the use and benefit of it with his neighbor (2). But those who lack the blessings of fortune are taught by the Church that, according to God's judgment, they should not be considered blameworthy for their poverty, which is not shameful, provided that their sustenance is obtained through labor. And this was confirmed by the Lord Christ, who, though He was rich (3), became poor for the sake of the salvation of men; and although He was the Son of God and God Himself, He wished to be seen as the son of a carpenter (4): and He did not refuse even to spend a considerable part of His time working as a carpenter. Is not this the carpenter, the son of Mary [Mariae]? (4) To those who contemplate the divinity of this man, these things are more easily understood: but the true dignity and excellence of a man are placed in his morals, that is, in virtue; and virtue is a common inheritance for all mortals, equally for the humble and the exalted, for the rich and the poor: and nothing else, whether found in anyone, brings the reward of eternal blessedness. It seems that the will of God Himself is more inclined towards a friendly disposition: for Jesus Christ calls the poor [pauperes] blessed (5): He invites, with love, all those who are laboring and burdened (6): He embraces the afflicted and those who are unjustly injured with the greatest charity. From this knowledge, the spirit of the unfortunate is easily depressed, and the soul of the afflicted is elevated: one is drawn to ease, the other to modesty. Thus, the interval of pride is shortened, and it will not be difficult to achieve the order of each, when, with friendly hands joined, their wills are united.

(1) Matthew 25:40.

(2) St. Gregory the Great, *In Evangelium Homiliae*, Romans 9, n. 7.

(3) 1 Corinthians 8:9.

(4) Mark 6:3.

(5) Matthew 5:3: "Blessed are the poor in spirit."

(6) Matthew 11:28: "Come to me all you that labor and are burdened,

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and I will refresh you."

[*Latin ed. p. 653*]

LETTERS 653: However, if Christians obey the precepts of Christ, it is not enough; fraternal love will unite them. For they understand and know that all men, being created by the same God, tend towards the same good, which is God Himself, who alone can perfect the happiness and blessedness of both men and angels; and that each one is equally redeemed by the benefit of Jesus Christ and vindicated in the dignity of the sons of God, so that they are bound by a fraternal bond, both with each other and with Christ the Lord, the firstborn among many brethren (1). Moreover, the good things of nature, the gifts of divine grace, pertain commonly and indiscriminately to the entire human race, and no one, except the unworthy, can be excluded from the heavenly blessings. For they are sons, and heirs: indeed, they are heirs of God, and coheirs of Christ (1). Such is the form of the duties and offices that Christian philosophy proclaims. Will it not, in a short time, be seen to be effective, even in civil society? Finally, the Church does not merely show the way to salvation, but also moves the will, like a medicine. For its entire purpose is to teach and instruct men, and to establish them in discipline; and its teachings are the most salutary streams, which the bishops and clergy strive to spread as widely as possible. Then it endeavors to permeate souls and to bend wills, so that they may be governed by the divine law and the precepts of discipline. And in this matter, which is the most important and which contains the greatest benefit, the Church alone can achieve the utmost. For the instruments it uses to move souls are those that have been entrusted to it by Jesus Christ, and they possess a divine power. These are the only instruments that can properly reach the depths of the heart, and lead a man to obey, to fulfill his duty, to restrain the movements of his soul, to love God and his neighbor with singular and supreme love, and to break down all those things that hinder the course of virtue. — It is enough in this matter to recall for a short time some examples of the past. Let us remember the deeds that have no doubt about them: namely, that civil society has been founded and renewed by Christian institutions; and the virtue of this renewal is evident in... (1) Romans 8:17.

[*Latin ed. p. 654*]

654 Letters have brought about a greater human advancement, irrevocable by death, and have increased perfection to such an extent that nothing like it has existed before, nor will there be anything greater in all future ages. Indeed, Jesus Christ is the beginning and the end of these benefits: just as a tree, so too are all things to be referred to Him. For, having received the light of the Gospel, and having learned the great mystery of the Incarnation of the Word and the redemption of mankind, the life of Jesus

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Christ permeated the cities of the world, and His faith, precepts, and laws filled all nations. Therefore, it is fitting that the human race should strive for this, and that the institutions of Christians should offer this as their sole remedy. For it is rightly prescribed to societies that, when they wish to be restored, they must return to their origins. For this is the perfection of all associations: to strive for and attain that for which their institutions are established; so that the movements and actions of society may produce the same result that gave rise to the society itself. Therefore, to deviate from the institution is corruption; to return to the institution is healing. And just as we say this concerning the entire body of the republic, so too we say it concerning that order of citizens who sustain life, which is the vast majority. However, it must be understood that the Church does not neglect those things that pertain to earthly and mortal life. — In particular, it desires that the working class should strive to attain a better condition and fortune. And in this, it contributes not a little, because it calls and establishes men in virtue. For, when Christian morals are observed, they spontaneously produce a certain share of external prosperity, because they reconcile the principle from which all good things come, namely God; they restrain the two plagues of life, which often make a man miserable even in the midst of abundance, namely excessive desire for things and the pursuit of pleasures (1): instead, they cultivate temperance and frugality, which provide sustenance and savings, they ward off vices, which not only exhaust small possessions, but also drain out even great wealth, and dissipate abundant patrimonies. But furthermore, in order that the working class may prosper, it provides and promotes those things that are necessary to alleviate their poverty. And in this very kind of benefit, it has always excelled so much that even its enemies have praised it (1).

(1) "Cupiditas est radix omnium malorum." 1 Timothy, VI, 10.

[*Latin ed. p. 655*]

LITTERAE 655. Among the most ancient Christians, mutual charity flourished to such an extent that no one among them was in want (1). Deacons, instituted specifically for this purpose by the Apostles, were entrusted with the task of performing daily acts of charity. And the Apostle Paul, although burdened with the care of all the Churches, nevertheless did not hesitate to dedicate himself to laborious journeys, in order to provide material assistance to the poorer Christians. Tertullian calls these funds, freely collected by the Christians in each community, "pious deposits," which were, of course, used to support the needy, the orphaned, and those abandoned by their relatives and in domestic circumstances, as well as shipwrecked persons (2). From this arose a patrimony, which the Church, with religious care, guarded as a family concern for the poor. She compared this support to an immovable aid for the suffering, and, overcoming all timidity in asking for help, established

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religious colleges and other useful institutions, so that no kind of misery would lack consolation. Today, many, as the pagans did in ancient times, turn away from the Church and this most excellent charity, and in its place, public benefits, established by laws, are introduced. But no human arts or institutions can replace Christian charity, which extends to all. The Church alone possesses this virtue, for without being led to the most sacred Heart of Jesus Christ, it is no true charity; but it wanders far from Christ, and whoever departs from the Church. Nevertheless, it cannot be doubted that, for the purpose in question, all that is within the power of men must also be employed. Indeed, all those who are concerned with this matter must strive and labor together for the common good. This has a certain resemblance to the providence of the world; for we see that the outcome of events depends on the cooperation of all things.

(1) Acts IV, 34.

(2) Apol. II, 39.

[*Latin ed. p. 656*]

656 LETTERS. Now, concerning what remedies are to be expected for the republic, investigate diligently. — By "republic" in this place, we understand not a populace consisting of one or two individuals, but rather that order which, in accordance with nature, is fitting and which is demonstrated by the divine documents of wisdom, which We ourselves have explained in Our Encyclical Letters concerning the constitution of Christian states. Therefore, those who govern the state must, above all, strive universally and in every way to promote the common good through laws and institutions, so that, through its very constitution and administration, the republic may foster the well-being of both the community and individuals. This is indeed the duty of civil prudence, and of those who hold authority. Now, the prosperity of states is most effectively achieved through the integrity of morals, the just order of families, the protection of religion and justice, the moderate imposition of public burdens, and their equitable distribution, the advancement of the arts and commerce, the flourishing of agriculture, and all other similar endeavors that are diligently promoted; the more these are present, the more virtuous the citizens are and the happier they are. — Therefore, it is within the power of the rulers of the state, as well as benefiting other orders, to greatly improve the condition of the common people: and they must do this with all their might, without any suspicion of undue influence; for they must, by the law of their office, consider the common good. However, in order that a greater abundance of benefits may arise from this general care, it is necessary to seek out other ways to promote the health and well-being of the people. But let this be considered, and it is a matter of the greatest importance, that the condition of the poor and the infirm is the same as that of the wealthy, within a state. For the common people are, by natural right, citizens, that is, living beings and

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members of the true body of the republic; and, to add to this, they are in the greatest number. Therefore, it is absurd to consult for the good of some, and to neglect others; hence, due care must be publicly taken to protect the safety and well-being of the common people; otherwise, the just order of things will be violated, and each will not receive what is his due. As Saint Thomas wisely says: "Just as a part is, in a certain sense, the same as the whole, so too, that which belongs to the whole, belongs, in a certain sense, to the part" (1). Therefore, in many and weighty matters, the good of the people must be considered.

(1) II-II Quaest. LXI, a. I ad 2.

[*Latin ed. p. 657*]

LETTERS 657 to eminent princes: The primary principle is that all citizens must be protected by the same laws, and that justice, which is called distributive, must be inviolably maintained. Although it is necessary for all citizens, without exception, to contribute something to the common good, and some of these contributions spontaneously arise from individual initiative, nevertheless, they must be made with equal consideration. Whatever the circumstances, and whatever distinctions may exist among citizens, permanent inequalities are necessary, without which society cannot even be conceived. It is absolutely necessary that some individuals dedicate themselves to the state, that others conceal their talents, and that still others, through their counsel and authority, administer urban affairs and military matters. It is clear that these individuals are the most important members of any society, because they contribute to the common good in the most direct and excellent way. On the other hand, those who engage in certain trades and professions do not contribute to the state in the same way, but nevertheless, they contribute greatly, and, although less directly, to the public good. Social good, when it is to be truly beneficial, must be such that it makes men better and more virtuous; therefore, it must be primarily placed in virtue. Nevertheless, a well-ordered state also provides for the material and external goods, the use of which is necessary for the exercise of virtue (1). Indeed, the labor of the working class is most effective and necessary for the provision of these goods, whether they work in the fields, in crafts, or in factories. In fact, the efficiency of this type of labor is so great that it is true that the wealth of nations comes from the labor of artisans. Justice requires that care be taken for the working class, so that, in return for the benefits they contribute to the common good, they themselves may receive something, such as housing, clothing, and the ability to live their lives with less hardship. Therefore, it follows that everything should be done to promote the well-being of the working class, in whatever way it may seem beneficial. This concern is not only harmless, but rather beneficial to all, because it is known that the poor, and those who lack essential goods, are the ones who most benefit from the common good. It is not right

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for the state to absorb a citizen, or a family, completely; rather, each must have the freedom to act according to their own abilities (1).

(1) St. Thomas, De Reg. Princip. I. c. XV. Opera, Vol. XXIII. p. CCLXXV. 42.

[*Latin ed. p. 658*]

658 Letters are to be sent, insofar as it is possible, so that the common good and the safety of all may be preserved, without causing injury to anyone. Nevertheless, those who govern must see to it that the community and its parts are protected. The community, indeed, is entrusted to the highest authority by nature, and it is the duty of that authority to consider public safety and the common good as the supreme law, and the very foundation of its rule. As for the parts [of the community], it pertains to their proper function to strive for the good of the republic, not for the benefit of those to whom they are entrusted, but for the benefit of those who are entrusted to them; both philosophy and the Christian faith agree on this. And since the power to govern originates from God, and is a certain participation in the highest authority, it must be exercised according to the example of divine power, not only in matters concerning individuals, but also with paternal care and the counsel of advisors. Therefore, if anything detrimental has been introduced, or threatens, the common good, or the established order of individuals, it is necessary to intervene with public authority, in order to correct or prohibit it by some other means.

But it is important that both public and private affairs be peaceful and well-ordered; that they be guided by the laws of God and the principles of nature; that domestic discipline be maintained; that religion be observed and cultivated; that private and public morals flourish; that justice be preserved, so that no one may be harmed by others without punishment; that citizens may be strong and grow up healthy; that they may be assisted and protected, and, if necessary, made suitable for the state. Therefore, whenever there arises a disturbance, such as a strike of workers, or a cessation of work, or when the natural bonds of family life are relaxed among the working class, or when religious observance is violated and does not provide sufficient opportunity for the duties of piety, or when there is a danger that the integrity of morals in workshops will be undermined by promiscuity or other invitations to sin, or when the order of workers is oppressed by unfair burdens, or when someone is afflicted by another with injustice, or when the health of workers is harmed by excessive labor, or by being employed without regard to age or sex, in such cases, it is necessary to set certain limits, and to exercise the power and authority of the law. These limits, indeed, which the law demands, determine the cause: namely, that no more should be undertaken by law, nor should one proceed further, than what is required for the remedy of the harm, or the prevention of danger. Laws, indeed, must be observed, and each individual

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must maintain what is his own; but public authority must provide for this, by preventing and punishing injuries. Especially, it is necessary to protect the private rights of individuals, especially the weak and the vulnerable.

[*Latin ed. p. 659*]

LITTERAE 659. The reason for providing for the poor. If a nation, rich in its seven seats, neglects the public good, then the poor, lacking any resources of their own, strive most earnestly for the support of the republic. Therefore, the republic must, with singular care and providence, embrace the cause of the poor, especially since their numbers are so great. But a matter of even greater importance must be addressed specifically: namely, that the republic must protect private property by the authority and force of laws. And, above all, in this time of such great greed, the people must restrain themselves in their desires; for it is not just, and it is conceded, that one should take from another what is rightfully his, and that such a practice should involve the absurdity of alienating fortunes; justice forbids it, nor does the common good permit it. For a long and arduous labor, achieved through honest work, is preferred by many artisans to a short and easy reward; yet there are not a few who, imbued with wicked opinions and eager for new things, do this in order to stir up unrest and to harm others. Therefore, the authority of the republic, and the restraint imposed upon agitators, must restrain the corrupting arts from the morals of artisans, and must prevent legitimate owners from being exposed to the danger of theft. A longer or more laborious labor, and the prospect of a shorter or smaller reward, often discourages artisans, causing them to demand higher prices, and thus leading to idleness. This is a common and serious problem that must be addressed publicly, because this kind of cessation is not only harmful to the artisans themselves, but also deprives the markets and the public of their benefits; and since it often leads to unrest, it frequently undermines public tranquility. Therefore, it is more effective and salutary to prevent this evil by the authority of the laws, and to remove the causes from which the conflict between owners and workers appears to arise. Similarly, there are many things that are necessary for the preservation of the republic, and first among them is the good of the soul. For although mortal life is, to some extent, good and desirable, it is not the ultimate end for which we are born; but rather, it is only a means and an instrument for contemplating the true good and for fulfilling the love of virtue. The soul is that which, possessing an expressed image and a divine likeness, and in which resides the principle by which we are commanded to rule over inferior natures, and to bring all things to the service of our own utility. The earth is filled with...

[*Latin ed. p. 660*]

660 Letters: and to the fishes of the sea, and to the fowls of the air, and to

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every living creature that moves upon the earth (1). All men are equal; nor is there anything that distinguishes them, whether rich or poor, masters or servants, princes or the lowly: for the same Lord is Master of all (2). To no man is it permitted to violate the dignity of another, which God Himself has bestowed upon him with great reverence, nor to hinder the progress of that perfection which is pleasing to eternal life. Moreover, no man can, of his own accord, desire to be treated in a manner contrary to his nature, or to serve the servitude of his soul: nor are his rights infringed, but rather the duties owed to God, which must be sacredly observed. — Hence, rest from work and labor through holy days is necessary. But let no one understand this as advocating for greater idleness, or for a cessation of activity such as many desire, which is the promoter of vice and the aid to the squandering of money, but rather as advocating for rest from work for the sake of religion. Joined with religion, rest calls man away from the labors and business of daily life, that he may be led to consider heavenly things, and to render due worship to the eternal God, as is fitting and due. This is the reason why rest is taken on holy days: for God, in the Old Testament, commanded it by a most important law: "Remember the Sabbath day, to keep it holy" (3); and He Himself, after He had created man, took rest: "And on the seventh day, He rested from all the work which He had done" (4). As for the protection of the goods of the body and of external things, first of all, the poor and laborious must be protected from the cruelty of greedy men, who abuse others for the sake of gain. Certainly, it is not just, nor is it humane, to demand so much labor that a man becomes exhausted, and his body succumbs to fatigue. In man, as in all of nature, there are certain limits to his strength; he cannot go beyond these limits. Indeed, his strength is increased by exercise and use, but even so, he must observe the law that he must rest as well as work. Therefore, with regard to daily work, care must be taken that more hours are not taken than are necessary, (1) Gen. 1:28. (2) Rom. 10:12. (3) Exod. 20:8. (4) Gen. 2:2.

[*Latin ed. p. 661*]

LETTER 661, as far as strength allows. The intervals for rest should be determined according to the nature of the work, the circumstances of time and place, and the health of the worker. Those whose work involves cutting stone or extracting metals, iron, copper, or other materials from deep within the earth, must compensate for the great strain on their health, which is considerable, with shorter working hours. Times must also be considered: for some tasks are easily tolerated at one time, but at another, they may be intolerable, or even impossible to perform without extreme difficulty. Finally, what a healthy and strong adult man can do, it is not right to demand of a woman or a young person. It is especially important to protect young people, so that they do not begin work before their bodies, minds, and spirits have become sufficiently strong. For the vigor of youth,

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or the fading vitality of old age, is destroyed by premature exertion: and thus, all the benefits of a youthful upbringing are lost. Therefore, certain crafts are less suitable for women who are naturally inclined towards domestic work: these tasks, indeed, more effectively protect the dignity of women and are in harmony with the upbringing of children and the prosperity of the family. In all cases, it must be determined that workers are given as much leisure as is necessary to compensate for the energy consumed by their labor: for the strength used must be restored by rest. In every obligation, whether between master and worker, there is always an explicit or implicit condition that both parties should have sufficient rest: for it would not be just to agree otherwise, nor would it be permissible to neglect the duties that bind us to God, to our neighbors, and to ourselves.

We come now to a very important point: it must be understood that neither party is necessarily in the wrong. For example, if the salary is defined by mutual agreement, then the master, having paid the agreed price, has fulfilled his obligation, and there is no reason to believe that he owes anything further. It would only be unjust if the master refused to pay the agreed price, or if the worker refused to perform the work he had agreed to do. In such cases, the law may intervene to protect the rights of each party, but this is a separate matter.

However, a just judge will not easily, nor entirely, agree with this argument, because it is not absolute in all its parts: there is a certain element of reason that is of the greatest importance. This is because working is done to acquire things that are necessary for the needs of life, and especially for the protection of life.

[*Latin ed. p. 662*]

662 Concerning Necessary Labor. "In the sweat of thy brow shalt thou eat bread" (1). Therefore, labor possesses two characteristics inherent in human nature: firstly, that it is personal, because the active force adheres to the person, and it is entirely proper to that person, being exercised by them and being for their benefit; secondly, that it is necessary, because the fruit of labor is essential for the sustenance of human life, and the preservation of life is, above all, what nature commands. Now, if we consider only the personal aspect, it is clear that the agreement concerning the reward for the work should be limited by a narrower boundary: for just as the work is given by the will, so too the reward for the work can, by the will, be either ample or meager, or even entirely lacking. But it must be judged differently if the necessity of the labor is joined with the consideration of the personal aspect, a thought which cannot be separated from the other. In truth, to remain alive is the common duty of all, and to fail in this duty is ruinous. Hence, the things necessary for sustaining life are born of necessity: and the ability to obtain these things is granted to everyone only through labor. Therefore, let the craftsman and the laborer freely agree,

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and specifically concerning the amount of the wage: for there is always something of natural justice that outweighs the will of those who make the agreement, namely, that it is fitting that the reward for labor should be adequate, and not unfair. But if the craftsman is compelled by necessity, or moved by a worse circumstance, to accept a harsher condition, which, even if he does not wish it, must be accepted, as it behooves a servant of our Lord and Redeemer, this is to endure a constraint to which justice demands submission. — However, in such matters as, for example, the number of hours to be worked in a particular craft, or the precautions to be taken for the preservation of health in workshops, no magistrate should impose anything arbitrarily, especially when the circumstances are varied, and depend on time, place, and other factors; it is better to reserve such judgments for the consideration of colleges, of which we shall speak later, or to follow another course, namely, to ensure that the wages of the workers are preserved, as is just, and that, if they require it, the protection of the city and the republic be added. If the craftsman receives a wage that is sufficient to provide for his wife and children, and to afford them comfort, he will easily strive for frugality, and if he is wise, he will ensure that, following the example of nature, he reduces certain expenses, so that he may also be able to... (1) Genesis III, 19.

[*Latin ed. p. 663*]

LETTER 663: It has come to our attention. For we have not seen any effective means of addressing the matter in question, except by assuming and establishing that the private property of citizens must be held sacred. Therefore, laws ought to favor this right, and, as far as possible, provide that as many as possible of the citizenry may possess property. This will result in most excellent benefits: and first of all, a more equitable distribution of goods. Civil transactions have divided the classes of citizens within cities, with an immense difference between each. On one side, a powerful faction, because it is wealthy, which controls all commerce and industry, and draws all the means of production to its own advantage, and also holds considerable power in the administration of the republic. On the other, a poor and weak multitude, with wounded spirits and always ready for unrest. Indeed, if the people are aroused with the hope of acquiring something of their own, gradually the one order will approach the other, with a great difference between the greatest wealth and the greatest poverty. Furthermore, there will be greater abundance of what the earth produces. For men, when they know that they are working for their own, apply themselves with far greater zeal and effort: indeed, they cultivate the land with their own hands, from which they expect not only sustenance, but also a certain abundance for themselves and their families. This eagerness of will, as is evident, greatly contributes to the fertility of the land and the increase of the wealth of the state. Thirdly, it is advantageous that those who are

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born and raised in a state should easily remain within it: for they will not exchange their homeland for a foreign region, if their homeland provides the means for a tolerable life. However, these benefits can only be achieved if the private property of citizens is not exhausted by the cruelty of taxes and levies. For if the right to possess private property is not given by law, but is a natural right, the public authority cannot abolish it, but can only regulate its use and harmonize it with the common good. Therefore, it is unjust and inhumane if the private property of citizens is taken away from them in excess of what is equitable, under the pretext of taxes. Finally, the nobility and the common people can contribute greatly to this, through institutions that provide appropriate assistance to the needy, and bring the one order closer to the other. Could there be associations of this kind for providing mutual aid?

[*Latin ed. p. 664*]

664 Letters concern various matters, established by private initiative, to safeguard the livelihood, as well as the well-being of wives and children, in case of unforeseen circumstances: institutions for the protection of boys, girls, adolescents, and those of more advanced age are also established. However, guilds of artisans hold the foremost place, encompassing almost all the others. The corporations of craftsmen were a good thing among our ancestors. They not only conferred outstanding benefits upon artisans, but also brought honor and advancement to the arts themselves, as is testified by numerous monuments. In our more learned age, with new customs, and with the increase of things that daily life requires, it is certainly necessary to promote guilds of artisans. It is desirable that such societies, whether composed entirely of artisans, or mixed with members of both orders, should flourish; and it is to be hoped that they will increase in number and in virtuous activity. Although we have spoken of these things more than once, it is fitting at this point to demonstrate how opportune and how beneficial they are, as well as how they should be governed, and what actions are appropriate. The exploration of one's own abilities and the realization of one's limitations impel and encourage men to seek the assistance of others. The Sacred Scriptures say: "It is better for two to be together than one; for they have the advantage of their companionship. If one falls, the other will lift him up. But woe to him who is alone and falls, for he has no one to help him up." And again: "A brother is born for adversity, and a rich man's brother is his wealth." Just as men are led by a natural inclination towards union and the formation of civil society, so too do they seek to enter into societies with their fellow citizens, societies that, although imperfect, are nevertheless societies. Among these, the great society, for various reasons, is of the greatest importance. The end of civil society pertains to all, because it contains a common good: and it is fitting that all and each should contribute to it in proportion. Therefore, it is called "public,"

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because all citizens communicate with each other in the establishment of a republic. On the other hand, those societies which are joined together as if in a fold are private, because, with respect to those who are closest to them, the benefit is a private one, pertaining only to those associated. A private society is one which is joined together for the purpose of carrying out a private undertaking, such as (1) Eccl. IV, 9-12. (2) Prov. XVIII, 19. (3) St. Thomas, *Contra impugnantes Dei cultum et religionem*, chap. 11.

[*Latin ed. p. 665*]

LITTERAE 665. Two or three individuals may enter into a society to engage in business together (1). Now, although private societies exist within the state, and are, as it were, parts thereof, it is not within the power of the republic, either universally or in itself, to prohibit them. For private societies are permitted by the natural right of man; and the state is instituted for the protection of natural law, not for its destruction. And if the association of citizens is forbidden, it plainly acts in opposition to nature, because both the state and private associations arise from the same principle, namely, that men are naturally social beings.

There are times when it is proper for laws to restrict this type of association: namely, if they pursue something that is contrary to the established order, to probity, to justice, or to the safety of the state. In such cases, the public authority may, by right, prevent such associations from forming; and it may even dissolve them. However, the greatest caution must be exercised, lest it seem that the rights of citizens are being violated, or that something is being enacted under the guise of public utility which is, in reality, unjust. Therefore, laws must be obeyed insofar as they are in accordance with right reason, and also with the eternal law of God (2).

Here, we consider societies to be understood as associations, colleges, and religious orders, which the Church, by its authority, and the pious will of Christians, has established; and how much these have contributed to the welfare of the human race, history speaks for itself. Such societies, if their purpose is solely based on reason, and if they are founded on a just cause, clearly appear to have been established by natural law. But if they pertain to religion, they are subject only to the Church. Therefore, those who administer the state should not arrogate to themselves any authority over them, nor should they unjustly interfere with their administration. Rather, it is the duty of the state to protect, preserve, and, where necessary, to restrain them from injustice.

However, we have seen that, in many places, this has happened quite differently. The public authority has violated societies of this kind, and has done so with great injustice: it has overthrown civil laws, deprived individuals of their legitimate rights, and despoiled them of their fortunes.

(1) ib.

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(2) Human law has reason [as law], insofar as it is according to right reason, and it is manifest that it is derived from the eternal law. But insofar as it deviates from reason, it is called an unjust law, and in such a case it is not law, but rather violence. (St. Thomas, Summa Theologica, I-II, Question 13).

[*Latin ed. p. 666*]

666. The Church, its individual members, and even those who had joined certain associations for a specific cause, were all attached to these, finding comfort and solace in them. Therefore, we cannot help but lament that such deprivations are so unjust and harmful, especially since they seem to prevent Catholic societies, which are undoubtedly beneficial in many respects, from operating freely, as they are sometimes forbidden to even form associations according to the laws. And this power is granted to those who, under the guise of religion, seek to harm the Republic. Indeed, the number of such diverse associations, especially those of artisans, is now far greater than before. The reasons for their rise, what they intend, and what they hope to achieve, are not the subject of inquiry here. However, it is the opinion of many, confirmed by numerous facts, that the most hidden instigators are those who, under the guise of non-Christian discipline, are not concerned with the salvation of the citizens; and that, by occupying the entire sphere of activity, they seek to force those who refuse to associate with them to suffer the penalties of poverty. – In this situation, it is clear that either Christian artisans must give up their associations, thereby exposing religion to great danger; or they must form their own brotherhoods, uniting their forces in such a way that they can redeem themselves from this unjust and intolerable oppression. It is certainly desirable that the latter course be taken, for who can doubt that there are those who are unwilling to recognize the most obvious distinction between good and evil? Indeed, many of our own people, having carefully considered what is required of them in these times, are striving and seeking ways to lead the working class to improvement through honest means. They support these associations, promoting prosperity both for the community and for individuals; they strengthen the bonds of equity by which artisans and employers are bound to each other; they foster and reinforce the memory of duty and the observance of evangelical precepts; precepts which, by restraining human passions, restore order and maintain harmony between persons and things in the state. For this purpose, we often see groups of men gathering in a particular place, where they communicate their ideas to each other, unite their efforts, and consult on what seems most expedient. Others devote themselves to various kinds of artisanal activities in cooperative societies, assisting each other with counsel and providing honest and productive

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work.

[*Latin ed. p. 667*]

LETTER 667, concerning provisions. The Bishop adds encouragement and offers patronage, by whose authority and support, many from both orders of the clergy, who are concerned with the welfare of others, diligently care for the needy. Finally, Catholics are not lacking in abundant resources, but there are also those who, as voluntary partners, contribute generously with large sums of money to these associations, and with their help, it is easy for the institution not only to provide present comforts, but also to secure honest and lasting peace of mind through its work. It is known that the industry and zeal that have been brought to bear on these common good endeavors are greater than can be adequately expressed. Therefore, we now confidently anticipate favorable prospects for the future, provided that these types of societies continue to grow and are established with prudent moderation. The republic must protect these associations of citizens, but it must not intrude into the innermost workings or the order of their lives, for the vital spirit is easily extinguished by external interference. Therefore, a wise and prudent moderation and discipline are necessary in this matter, so that there may be agreement in action and a conspiracy of wills. Therefore, it is fitting that citizens should have the freedom to join, and it is also necessary that they should freely choose the discipline and regulations that they judge to be most conducive to the purpose. We do not believe that it is possible to determine, with certain and defined rules, what moderation and discipline should be in each of its parts, since this must be determined by the nature of the people, by the circumstances and use, by the type and efficiency of the works, by the example of commerce, and by other related matters that must be carefully considered. Above all, it is established as a general and perpetual law that these craft guilds must be governed in such a way as to provide the most suitable and most effective means for achieving their purpose, which is that each member should contribute to the growth of the good of the body, the soul, and the family, as far as possible. It is clear that piety and morals must be considered as the primary cause, and that these must be the guiding principles of social discipline. Otherwise, they would degenerate into another form, and such guilds, in which no regard for religion is had, would not be of much benefit. Furthermore, what benefit is there to a guild?

[*Latin ed. p. 668*]

668 Whether letters are exchanged with a society, or whether one is concerned about the lack of food or the health of the soul? What does it profit a man, if he gains the whole world, and suffers loss to his soul? (1) Indeed, Christ the Lord teaches this, as a mark by which the Christian is distinguished from the pagan: "All nations shall say: Where are

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they, that devoured the strength of Israel? Behold, they are become very small, and they are gone away." (2) If, therefore, the principles of God are adopted, then much religious instruction should be given to the place, so that each individual may know their duties towards God: they should know clearly what they ought to believe, what they ought to hope for, and what they ought to do for the sake of eternal salvation; and they should be warned against the errors of opinions and the various corruptions of the world. From the worship of God and the study of piety, the craftsman should be aroused, especially to the observance of religious festivals. He should establish love and respect for the common parent, the Church; and he should obey its precepts and frequently receive the sacraments, which are divine instruments for expiating the blemishes of the soul and acquiring sanctity. With social laws established on the foundation of religion, the way is prepared to establish harmonious relationships among the members, so that justice and prosperity may follow. The duties of the associations must be adapted to the common good, and thus the lack of agreement is lessened. The offices must be defined intelligently and clearly, which is of great importance for the cause, so that no one is harmed. The common administration must be conducted honestly, so that the means of helping those in need are determined in advance: the rights and duties of the masters should be in harmony with the rights and duties of the workers. If either party believes that any injustice has been done, there is nothing more to be desired than to appeal to wise and honest men of the same body, whose judgment will resolve the dispute and maintain social harmony. It must also be carefully provided that the supply of goods does not fail at any time for the craftsman, and that a fund is provided from which assistance can be given to the needs of individuals, not only in sudden and unforeseen circumstances, but also when illness, old age, or misfortune oppresses someone. With these laws, if they are accepted willingly, the well-being and salvation of the weaker will be sufficiently considered: and Catholic associations contribute no small amount to the prosperity of the present time in the state. (1) Matthew 16:26. (2) Matthew 6:32-33.

[*Latin ed. p. 669*]

LETTERS 669 – concerning the future. From past events, we do not fear to foresee the future. For age is succeeded by age, but the affairs of men are marked by similarities, because they are governed by the providence of God, which moderates and directs the continuation and sequence of things for the purpose He has established in the procreation and flourishing of the human race. – To Christians, in the early age of the Church, it was given as a reproach that a large part of the clergy obtained their livelihood through stipends or pensions. But, deprived of their patrimony and power, they nevertheless enriched themselves with grace and joined themselves to the patronage of the powerful. It could be seen that they were

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diligent, laborious, peaceful, and held an unparalleled example of justice and charity. This spectacle of their lives and virtues caused all preconceived opinions to vanish, the reproaches of the envious to change into praise, and the comments of ingrained superstitions to gradually yield to Christian truth. – Concerning the present state of artisans: whether this competition is resolved justly or unjustly, it is of the utmost importance to the republic on both sides. It can easily be resolved by Christian artisans, if, united in society and guided by prudent leaders, they enter the same path that their fathers and ancestors followed, with singular benefit to themselves and to the public. For, although the power of preconceived opinions and cupidity is great in men, yet, unless the sense of honor and a good will have been stupefied, the future will be more favorable to citizens who are industrious, modest, and known to place equity, profit, religion, and duty above all things. From this, it will also follow a benefit, namely, that the hope and means of health will be provided in no small measure to those artisans who, either do not at all respect the Christian faith, or who live according to customs foreign to their profession. Indeed, these are often deceived by false hopes and the appearance of things. They feel that they are treated very inhumanely by the greedy, and are hardly worth more than the amount they pay and the labor they perform. But those who are involved in such societies, in them, internal discord arises from charity and love, and they are perpetual companions of petulant and incredulous poverty. With a broken spirit and a weakened body, how many would like to vindicate this servitude! But they do not dare, or human shame, or fear of poverty, prevents them. Truly, in all these matters, how much good Catholic associations can do, if they invite those who are hesitant to join them, if they receive those who are returning to the protection of their faith.

[*Latin ed. p. 670*]

670 My Venerable Brothers, you have matters to address, and it is most difficult to determine how and by what means to accomplish them. – It is necessary to attend to each matter promptly, lest the delay cause such great inconvenience that no remedy can be found. They should employ the laws and the wisdom of those who govern the republics: they must remember their duties, both the wealthy and the lords: they must consider the needs of the people; and since, as we said at the beginning, religion alone can truly drive out evil, let all, above all, strive to restore Christian morals, without which even those weapons of prudence, which they consider most effective, are of little use for salvation. – As far as the Church is concerned, they must not allow any time or opportunity to pass without dedicating themselves to it, offering as much help as possible, especially since the greater the freedom they have in governing, the more they must contribute. This, in particular, applies to those whose duty it is to advise the public good. Let

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all the ministers of the sacred rites devote their minds and energies to this; and you, Venerable Brothers, with your authority preceding you and your example, must never cease to impress upon the people, drawn from every rank, the teachings of life taken from the Gospel: let them strive with all their might for the salvation of the people, and above all, let them cultivate in themselves, and inspire in others, the highest and most excellent of all virtues, charity. For the hoped-for salvation is to be attained primarily through a great outpouring of charity: by Christian charity, we mean that daily law of the Gospel, by which one prepares oneself and one's own resources for the benefit of others, and which is the surest defense against the arrogance of the world and its excessive love of self: and the Apostle Paul expressed the qualities and inclinations of this virtue in these words: "Charity is patient, charity is kind; it envies not; it vaunts not itself, is not puffed up, does nothing unseemly, seeks not its own, is not easily provoked, thinks no evil; does not rejoice in iniquity, but rejoices in the truth; bears all things, believes all things, hopes all things, endures all things" (1). Under the auspices and benevolence of Our Divine ministry, We impart to you individually, Venerable Brothers, and to your clergy and people, Our apostolic blessing, in the Lord. Given at Rome, near St. Peter, on the fifteenth day of May in the year 1891, in the fourteenth year of Our Pontificate. LEO XIII. (1) Corinthians, XIII, 4-7.

[*Latin ed. p. 671*]

671 FROM THE HOLY CONGREGATION OF THE COUNCIL OF BOIANO. PROVISION FOR THE PARISH. January 31, 1891. Session 24, chapter 18, Concerning Reform. A SUMMARY OF THE FACTS. Due to the death of the priest David de Sisto on September 10, 1886, the parish of Sassinoro in the diocese of Boiano became vacant. The Bishop convened a competition. Two candidates, namely, John Mastracchio and Ermenegildo Palma, registered; but on May 23, 1887, both were rejected. On October 12, the Bishop announced a new competition, to be held on the 25th of the same month, and again two candidates appeared, namely, John Mastracchio, the same one who had been rejected in the first examination, and Joshua di Mella. But this time, both were approved, although Joshua di Mella was approved "with the greatest praise" and in first place, the other in second place. Immediately after the vote of the examiners was announced, Mastracchio sent a letter to the Bishop through the hand of a lay official, in which he stated that the Bishop and the synodal examiners were acting against him. At the same time, he filed an appeal before the metropolitan court of Benevento, alleging, among other things, that Joshua di Mella was a religious of the Order of the Friars Minor of St. Francis, and that he had been dismissed from his religious order by a decree of secularization, and that he was living outside the religious order only through the tolerance of his superiors, and that he resided in the diocesan

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seminary of Boiano, where he served as a teacher; and therefore, he could not be approved, let alone appointed. Nevertheless, the Bishop of Boiano granted the letters of appointment to the priest di Mella, and a few days later, he took possession of the parish, with a regional trial soon to follow. However, it is important to remember from the beginning that Father di Mella, perhaps because of the pending matter before the metropolitan...

[*Latin ed. p. 672*]

672 BOIANO. The ecclesiastical court, after examining the case, appears to have prudently refrained from interfering with the matter concerning the residence. Conversely, the Bishop of Boiano, who had initially entrusted the administration of the vacant parish to the priest Mastracchio, subsequently requested that another priest assume that responsibility; but he deemed that no one other than the brother of the aforementioned P. di Mella, Silvestro di Mella, should be chosen for this office. In the meantime, the archiepiscopal court, after considering various acts and matters pertaining to the case, rendered a judgment entirely favorable to the plaintiff. I quote the words: "Considering that the unjust holder of a benefice must be deprived of it by the judgment of the judge, and restrained by canonical penalties, if he does not relinquish the benefice." "Considering further, in fact and established, that Father Josue Mella, from Saxinoro, is and remains truly and properly a secular priest, since no rescript has been obtained from him due to the failure to carry out the necessary procedures at the appropriate time: " "It is established that there was no apostolic dispensation for the admission of Father Mella to the competition for the vacant archpriestal church of the town of Saxinoro, which is entirely a secular benefice." "It is established that the benefice of Saxinoro was granted to Father Josue Mella in perpetuity, not in administration and at the discretion of the Bishop and the respective superior of his order. For although the documents of collation were not presented to ascertain this, which was the fault of those concerned, yet it is established from the very fact itself, that in the presentation of the apostolic rescript for the secularization of Father Mella to this court by the Boiano Ordinary, it was declared that the rescript required for proper execution was withheld in the admission to the competition; therefore, the Reverend Father Mella was admitted by the Bishop as a secular priest to the competition, and the parish of Saxinoro was granted to him in perpetuity:" "It is also established that, although Father Mella in his petition for admission to the competition states that he has the permission and consent of his own superior, yet according to the testimony of the Vicar..."

[*Latin ed. p. 673*]

BOIANO. 673. The General [Chapter] never obtained the permission re-

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quired by law, nor did it present the license necessary to reside outside the cloister, which is absolutely required in order that a religious may lawfully and validly enjoy the extraordinary privileges granted by the Apostolic See. We definitively judge that the appeal made on behalf of the Reverend Mr. John Mastracchio was well-founded; therefore, the provision, collation, and institution of the benefice of the archpriest of the church of the town of Saxinorio, made by the Reverend Suffragan Bishop of Boiano, in favor of the Reverend Father Joshua Mella of Saxinorio, a member of the Order of the Minor Observance of St. Francis, are declared null and void, and we condemn the bulls issued, declaring them invalid; and we declare that the Reverend Father Joshua Mella must be and is to be removed from the possession of the aforementioned benefice, and we remove him from it, under the canonical penalties prescribed against those who unjustly hold benefices.

On the contrary, we declare that the Reverend John Mastracchio is more suitable and capable of obtaining and administering the parish church of Saxinorio and its archpriestship, and of the care of souls attached to it; we declare, approve, and, by our metropolitan authority, we nominate, elect, and institute him to the aforementioned benefice. And we command that bulls be issued by this our metropolitan court, and that the Reverend Mr. John Mastracchio be admitted to the true, real, and corporal possession of the benefice of the vacant church of Saxinorio, with all rights, fruits, revenues, emoluments, distributions, and appurtenances aforesaid, after any other illicit holder has been removed from there, and without any appeal being interposed. Regarding the other matters mentioned both in the appeal and in the opinion of our examiners, we reserve the power to say, judge, dispose, and decide as it shall be lawful and as it shall seem necessary to Us.

"This sentence was issued on March 16, 1888, but it is only reported on the 31st in the case of Father Mella; however, he appealed through his procurator before the Most Holy Congregation on the 26th of the same month. Both prelates were immediately questioned. Records, Volume XXIII, page 275, 43."

[*Latin ed. p. 674*]

674 BOIANO. The Bishop of Boiano responded first, among other things, stating that the people of the locality of Sassinoro were hostile to the priest Mastracchio, and therefore that Bishop was earnestly requesting that the Holy Office would deign to confirm, even if only by grace, the nomination of the priest Joshua di Mella. When asked for his opinion on this matter, the Archbishop of Benevento, who was present, first declared that the judgment of his court was most just; and he decreed that this should be upheld entirely, both so that justice would not be violated, and so that the court of Boiano would be taught, and would fear to disregard the laws in the

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future. He further stated that the appeal of Father di Mella before his court had not been presented within the proper time; – although, for the sake of truth, and so that this matter may not be revisited again, it should be noted that di Mella himself appealed before the Sacred Congregation within the proper time, as is evident from the records in the protocol of the Sacred Congregation. This, indeed, seems sufficient both by the privilege granted to the Holy See itself, and by the opinions of the learned doctors, such as Reiffenstuel, title 28, book 2, § 3, and Ferraris, in *Appellationes*, article 8.

Furthermore, the Archbishop warned that the utmost caution should be exercised in admitting documents favoring Father di Mella that originated from the court of Boiano. And after these remarks, he added that he had continued to pursue the matter with the aim of obtaining the secular benefice for Father di Mella, but that he had also been prepared to expose the actions of the court of Boiano, which demonstrated a stain of simony, by which the excessive favor shown to the priest di Mella was explained, and which could easily be proven, were it not for the counsel of charity and prudence.

Finally, regarding the people's aversion to the priest Mastracchio, it is difficult to render a judgment here and now. It seems unlikely to him that the people would harbor such hatred for a man whom they had frequently had as their parish administrator, and who, on this very occasion, had been requested as pastor, with emissaries sent to the Bishop for this purpose, who reported the people's wishes. However, he feared that the people's movement in favor of di Mella, who acts as the parish administrator, might be due to family ties.

[*Latin ed. p. 675*]

BOIANO. Therefore, it is necessary to remove him before a judgment is rendered concerning the hatred of the people. Regarding the petition of the Bishop of Boiano, namely, that at least, for the sake of appearances, the acts of his court be approved, and that P. di Mella be appointed, the Most Reverend Metropolitan, for his part, resisted; all the more so because the things said concerning the merits and virtues of P. di Mella should be regarded with caution; and furthermore, it is known that this man was received twice in the house of loose women, and that from this weakness, he developed a very strong inclination to drink. After considering these things, it was decided to write to the aforementioned Most Reverend Archbishop, requesting that he appoint a priest to be designated as the administrator of the parish of Sassino. The priest indicated was Mastrantone; who, without delay, accepted the care of the parish by order of the Sacred Congregation of the Council. In the meantime, the Bishop of Boiano came to Rome with certain citizens from Sassino, and he described the hatred of the people towards Mastracchio so strongly that the Most Reverend Prefect of the Sacred Congregation considered it necessary to write to the Most Reverend

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Prelate of Benevento, urging him to instruct the aforementioned priest to send him whatever he might have concerning the matter. In response, he wrote a letter stating that the request was difficult, and not entirely opportune, especially considering the illegitimate and abusive manner in which the court of Boiano was acting in this case. Subsequently, more documents were presented to the Sacred Congregation; for the Bishop of Boiano was entirely focused on portraying the miserable state of that parish, and the most bitter and ever-increasing hatred of the inhabitants towards Mastracchio. In the same spirit, a petition signed by 134 of the citizens was sent to the Sacred Congregation. Conversely, the syndic of the place, and the administrator of the parish, Mastrantone, repeatedly reported that all was now quiet, and that if there were any regrettable inconveniences, these should be attributed solely to P. di Mella and his brother. Indeed, the syndic of the place, who is himself named Mastracchio, which it will not be superfluous to mention, reports that they are enjoying tranquility.

[*Latin ed. p. 676*]

676 BOIANEN. Matters have transpired; however, only a few are incited against Priest Mastracchio by the people. These are not moved by others, but by the supporters of the curia, and by the brothers of Mella. The majority, however, stand in favor of Priest Mastracchio and the metropolitan judgment, and implore that justice be done to this priest. – Five other inhabitants of Saxinore also subscribe in a separate document; and the economist Mastrantone speaks no differently. Finally, in more recent letters, more is lamented concerning the manner of acting of Father di Mella, which, although it may not be helpful in understanding the character and mind of this man, it will not be superfluous to recount. For, Father di Mella, sent by the Government to take possession of the parish property, refused him any pension or compensation. Moreover, he adds, that this same Father was so obstinate in retaining the key and utensils of a certain rural chapel, that, although warned three times by the Bishop, he always refused to comply; therefore, by the same Bishop, on September 4, 1889, he was subjected to the penalty of suspension. Finally, what the Bishop accumulates in his letters concerning the indignity and wickedness of Priest Mastracchio should be mentioned; but it is considered more useful to abstain from these, both because they concern generic accusations, and because the same Bishop, before the beginning of this cause, had not once, but repeatedly, commended this priest with solemn praise through a public document sent to him. When, most recently, the administration of the vacant parish was demanded of him, he recommended him with the highest praise through a public document sent to him.

Synopsis of the Dispute. The point of contention, as is clear from what has been presented thus far, is whether the judgment of the metropolitan curia in favor of Priest Mastracchio should be confirmed; or whether, rather,

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the provision in favor of Father di Mella, made by the Suffragan, should be upheld, either by law or by grace; or finally, whether, both options being rejected, one should proceed to a new provision.

[*Latin ed. p. 677*]

BOIANO. 677 In confirmation of the metropolitan judgment and the action taken by it, it is helpful to recall, in the present discipline, that whatever may have been the case in the past, it is certain that secular benefices cannot be conferred upon religious. Indeed, in the Constitution *Quod inscrutabili*, dated 9 July 1745, Benedict XIV states: "It is well known that there has long been a controversy as to whether canons regular are capable of obtaining and retaining parish churches without an apostolic indult, and it has often been answered that they cannot be promoted to secular parishes without an apostolic indult. Thus, the Sacred Congregation of 1581 responded, and its response was confirmed by Gregory XIII." From this decision of Gregory XIII, Fagnanus argues, in chapter *Quod Dei timor* concerning the state of monks, no. 17, that the same must be said, *a fortiori*, of other religious: "It follows that secular religious of other orders are, by far, less able to be entrusted with the care of souls... Hence, when it has been asked whether religious can be appointed to the care of souls by a Bishop without an apostolic dispensation, the Sacred Congregation judged that they cannot, unless with the addition of a dispensation, which does not seem to be granted, except at the request of the Bishop for the necessity or benefit of the church..." Furthermore, Reclusius, in his *Tractatus de concursibus* etc., title 1, no. 134, lists religious among those who are incapable of acquiring parishes, and therefore are not to be admitted to a competition, also citing the Sacred Congregation in Marsor, Capellaniae, 31 January 1764, and giving this reason: "For since benefices, especially parochial and curatial ones, are of a perpetual nature, and possess, by their very nature, a perpetual right of collation, therefore religious are, by law, deemed incapable, because they would pass from perpetual to manual and removable things, from which it follows that religious, by reason of their vow of obedience, are considered incapable of perpetual benefices." Hence, finally, Bouix concludes, after various discussions on ancient law, in *De Regularibus*, part V, chapter IV, proposition 2: "It is certainly necessary for an apostolic indult, so that religious may be appointed to secular parishes, so that today the matter is entirely free from controversy." It could be objected that, since the year 1870...

[*Latin ed. p. 678*]

678 BOIANEN. Father Joshua of Mella received a decree of perpetual secularization, with the faculty of acquiring any benefice, even a parochial one. However, it appears that Father di Mella does not consider this decree

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to be valid, because, according to him, the decree was never put into effect. It is said, although a copy of this grant was not presented to the records, that it was not granted in a gracious manner, as they say, but rather conditionally, inasmuch as the Vicariate of the Boiano chapter was obligated to grant the orator permission to remain outside the cloister for as long as he lived, and to live under the obedience of the Ordinary, provided that the orator was sufficiently provided with a patrimony; and it was added that the decree would be of no value unless its execution was obtained within a term of six months from the date of the commission by the aforementioned Ordinary of Boiano. However, the Bishop of Boiano acknowledged that the decree was never properly put into effect, having sent letters to the Most Reverend Archbishop of Benevento; and it does not appear that any sacred constitution of the patrimony was ever made, since when the Metropolitan judge, upon being requested to present the documents proving this, could offer nothing. The same is confirmed by the account narrated by the Most Reverend Metropolitan, and related in the form of a fact, concerning the fraudulent and false document presented in the Court of Appeals, in order to prove the execution of the apostolic decree. Nevertheless, it is well known that, once any grace has been obtained, all conditions, especially the resolutive ones, must be strictly observed. Furthermore, it is said that Father di Mella claims to have obtained permission from his superiors of his Order to remain outside the cloister permanently. However, for this to be of any benefit to him, it would mean that he could enjoy the benefits of the special faculties granted by the Holy Penitentiary, on August 18, 1867, concerning the dispersion of religious; in which, under number 16, the following is stated: "It is also granted to solemnly professed religious to legitimately acquire and retain chaplaincies, or at most one ecclesiastical benefice, even a residential one or one with the care of souls, with the consent and at the discretion of the local Ordinary, and with the approval of their superiors in administration."

[*Latin ed. p. 679*]

BOIANEN. 679 which, however, they are obligated to relinquish immediately, and after being recalled by their superiors to the cloister. But, as is clear to any reader, it is quite different to confer a benefice upon someone in administration, and at the discretion of the grantor, and also that the will of the one to whom it is granted depends on that of the grantor, than to confer it in perpetuity, as was the case here. Furthermore, as P. di Mella could only acquire a parochial benefice in administration and at the discretion of others, it was necessary, as is evident from the terms of the faculties granted by the Sacred Penitentiary, that he be provided with the license of his superiors; but the Vicar General of Boiano informed the Metropolitan judge that this license was lacking in this case. Therefore, when the matter is considered, it always seems that P. di Mella was entirely incapable of

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acquiring a parochial benefice, and indeed that he was subject to such laws and conditions that he could not even legitimately present himself for the competition, as is evident from the aforementioned passage from Reclusius, who writes under the title: "Concerning those who are incapable of acquiring parishes, and therefore are not to be admitted to the competition." And therefore, no attention should be given to the expenses incurred by the favor of Father di Mella while the appeal is being judged by the Boianese Ordinary, nor should any attention be given to the decree of Riez, which always presupposes the canonical collation of the benefice, and which, although granted, can be revoked by the Government with the same and even greater ease with which it was granted. Nor should any consideration be given to the accusation of simony; because, since nothing relevant to that matter has been presented to the Sacred Congregation, it cannot be legally determined whether and to what extent the proceedings will be affected; although, from now on, this suspicion of simony, which the Metropolitan readily renounces, cannot but make the judges more severe towards P. di Mella, and more inclined to exclude him, whom both common law and the sentence of the second grade have declared and proclaimed incapable of acquiring a parochial benefice. But from this cause, the priest Mastracchio is greatly aided. Since the adversary is excluded, he is...

[*Latin ed. p. 680*]

680 BOIANO. It appears that the parish is to be canonically established, having been found suitable both in the first and second degrees of examination. However, there is strong opposition from the people; for there are reasons to believe that this opposition arose not from a spontaneous movement of the populace, but rather from the artful machinations and envy of certain rivals, and was not as violent as the Boiano ecclesiastical court describes. Indeed, just as this court and its officials, having previously praised Mastracchio, whom an impartial judge had declared worthy of the position, and whom the Boiano Bishop himself had recently announced as suitable in a solemn document, soon, with circumstances changed, denounced him as a scoundrel; so, without injustice, it can be believed that the same officials also exaggerated the cause of the opposition, and were carried away by excessive zeal. Conversely, whatever the causes and instigators may be, the aversion of the people of Sassinoro towards the priest Mastracchio was so great that he was sent there not without considerable expense to peace and the salvation of souls. There is, in fact, a document signed by more than 100 citizens, which forcefully, if I may say so, demands that the pastor Mastracchio not be appointed. Moreover, if one considers that Sassinoro is not a large rural parish, surely no one will deny that one hundred and thirty, or even one hundred and forty, signatories represent a significant number of opponents. To this is added the testimony of the Ordinary, who, as he discovered in the parish both previously in the court

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and recently during the Sacred Visitation, found very serious problems and great irritation among the people. Furthermore, if, even due to the hatred of a wicked people, a pastor can be removed and transferred from one place to another, as stated in Reinfienstuel, book 3, title 19, paragraph 39, with common consent; a fortiori, a candidate who is proven to be unsuitable can be rejected and not appointed in a competition. But if this were the case, and if one candidate was rejected because he was legally incapable, and the other because he was unpopular with the people, then the parish of Sassinoro would still remain without a pastor, and the second competition held for its provision would, like the first, be null and void. With these circumstances, the course of action to be taken is readily apparent.

[*Latin ed. p. 681*]

BOIANO. The number 681 is not mentioned. From Garzia, *De Beneficiis*, book 9, chapter 2, paragraph 218, and Gallemart, concerning chapter 18, session 24 of the Council of Trent, we know that the Sacred Congregation of Bishops wrote to the Bishop of Vicenza in the years immediately following the Council of Trent, stating that he could, without further concurrence, confer parishes which he had previously presented for concurrence, without any concurrence or approval being obtained. However, in our case, the Bishop, as well as the Metropolitan, exercised their right; and the matter was brought before the Sacred Congregation, as a tribunal of the third degree; and therefore, it seems to pertain to the same Sacred Congregation to pronounce the final judgment, and to either declare the parish provided or to provide for it anew. Furthermore, there was a defect in the very process of concurrence. Indeed, the parish became vacant on September 10, 1886; but the concurrence was held on March 23, 1887, that is, 13 days after six months. However, the Bishop is required, according to the Constitution *In Conferendis* of St. Pius V, to complete the entire process of concurrence within six months from the date of the vacancy; and although the Ordinary can postpone the entire process of concurrence to the very last day of the six months, as Ferraris states in *De Concursus*, article 2, paragraph 52, he cannot exceed this term. Benefits must be conferred within six months, according to chapter "Nulla De Conc." of the *Praebenda*. Otherwise, the conferral for that occasion devolves to the immediate superior. Therefore, at least strictly according to the law, it would seem that the Ordinary of Boiano was deemed to have forfeited his right to the provision of the parish of Sassino from the time that six months elapsed from the vacancy until the beginning of the process, and therefore, all the acts performed by him are also invalid for this reason. With these considerations in mind, the following questions must be addressed: I. Should the sentence of the Metropolitan Court of Benevento of March 16, 1888, in which the parish of Sassino is assigned to the priest Mastracchio, be confirmed? Or, rather, should the provision

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of the parish, made in favor of Father di Mella by the suffragan court, be upheld? And to this, the answer is negative in both cases. II. How should provision be made in this case?

[*Latin ed. p. 682*]

682 BOIANEN. Sacra Officia Concilii, postquam rem sub die 3 Ianuarii 1891 discussam habuit, censuit respondere: Sententiam confirmandam et amplius: et ad mentem. Ex quibus colligitur: I. Ab Episcopis non posse praefici curae animarum regulares, nisi accedente dispensatione apostolica, quae non videtur concedenda, nisi instante Episcopo pro necessitate vel utilitate Ecclesiae. II. Beneficia enim curata sunt, suapte natura, perpetua; et habent in se titulum perpetuo collativum: sed regulares, ex voto obedientiae, incapaces ad perpetua beneficia reputantur; et ideo si eisdem conferantur, absque apostolico indulto, de perpetuis fierent amovibilia.

RESOLUTIO. VENTIMILIEN. DISMEMBRATIONIS ET ERECTIONIS PAROECIAE. CAUSAE PROSEQUUTIO. (1) Proposita haec causa die 14 Iunii 1890 sub dubio: An episcopale decretum diei 22 Octobris 1888 sustineatur in casu, negativo responso dimissa fuit. Hanc resolutionem, cum Episcopus cognovit, illico novae auditionis beneficium imploravit, asserens huiusmodi resolutionem se inaudito et indefenso, ac proinde contra elementaria iuris principia latam fuisse. Hisce acceptis, die 27 Iulii 1890 rescriptum fuit: Iterum proponatur, et notificetur Episcopo. Verum cum alterius partis orator insisteret, ut quam citius novum causae examen institueretur, aut si minus in prima congregatione post ferias autumnales, Eius Praefectus sub die 2 Augusti decrevit: Proponatur omnino et infallanter in prima post aquas et notificetur. Huiusmodi novum decretum haud arrisit Episcopo, qui propterea, mense Octobre ad exitum properante, propositionis dilationem imploravit, ut defensionem parare valeret. (1) Habes speciem huius quaestionis pag. 263 Voluminis huius.

[*Latin ed. p. 683*]

In VENTIMILIEN, at the urgent request and entreaty of the patron of the Canons, so that the cause might be examined within the prescribed time, on November 19th, the Prefect issued this new decree: In accordance with the rescript of July 27th of the current year, the cause is to be presented at the first assembly where the Bishop of Ventimiliën may explain the need for a postponement to another assembly. Following the aforementioned rescript, the cause, having been re-presented, was scheduled for December 20th, 1890, under the formula of inquiry: ”Whether it is fitting to adhere to or depart from the decisions in this case”; at the request of the Bishop, it was postponed to the assembly of February 28th, 1891. Synopsis of the Discussion. DEFENSE OF THE BISHOP. The Bishop, considering the numerous and serious irregularities that occurred in the previous presenta-

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tion of the cause, since the cause was discussed and decided upon without being heard or defended, vigorously contended that the decree of October 22nd, which he had issued, should be confirmed, and that, therefore, the resolution of June 14th, 1890, should be declared invalid, as it lacked any firm foundation. To demonstrate this, the Bishop, having presented the decree of October 22nd, 1888, and comparing it with another decree issued by Bishop Biale in 1852, in accordance with the blessed rescript of Pope Pius IX, observed that, apart from the abolition of mixed jurisdiction, it introduced nothing new and maintained everything that had previously been established by Bishop Biale and, for many years, had been observed without contradiction. Therefore, the Bishop was astonished that his decree, which, except for the abolition of mixed jurisdiction, confirmed what had long been established and in force, was now so strongly opposed. The abolition of this mixed jurisdiction, however, was not undertaken lightly, but for several reasons: 1. because it had been introduced by Bishop Biale himself, since not a word or phrase about it is found in the aforementioned constitution of Pope Pius IX; 2. because it was the cause of discord and strife between the Prefect of St. Syri and the rector of St. Stephen.

[*Latin ed. p. 684*]

684 VENTIMILIEN. The canons frequently pray that those things which are necessary may arise. The Bishop of Trent commands that this mixed jurisdiction, which exists in whatever form, where rectors or vicars are appointed, should be abolished, and that, contrary to custom, as is stated in chapter 13, session 24, concerning ecclesiastical matters: "In parochial churches, wherever it is seen that the people, without any memorable privilege, have rectors or vicars who do not attend to the people, who do not even receive those who seek the sacraments, but administer to them only when they are requested, and who govern, but do not have their own parishes, but administer to certain populations, and assign to each a perpetual and particular parish, etc." 4. Furthermore, in order to assist the Church of Saint Stephen, which, in the year 1848, was deprived of all its movable goods, so that it might be of benefit to the same Church, the rector of the Church of Saint Stephen, Signor Scigliarume, offered the sum of 20,000 livres, and the annual income of the Church reaches 5,000 livres. However, this mixed jurisdiction, as it is called, was added to the Church under the condition that, as stated, the Church would be truly a parish. Nevertheless, the aforementioned decree must be confirmed by the Bishop, because, in truth, it has not been introduced, and it is truly understood that, since the Church is actually under the care of canons and is subject to their tithes, the canons, before the year 1852, had the care of souls, and therefore, the aforementioned decree, which was granted by Pope Pius IX, does not invalidate the right of the canons to the care of souls, nor does it impugn their right. Furthermore, it is asserted that the

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title of "Praepositus" can be bestowed upon the canons, as is stated in the bull of Pope Pius IX.

[*Latin ed. p. 685*]

VENTIMILIEN. In the year 1837, the following regulations concerning the present care of souls are found: "The care of these souls has been entrusted to the rector of the collegiate church and to two priests designated as vicars." This is further confirmed by a document, taken from a certain statute, commonly called a "regolamento," published by the Chapter in the year 1881, and from another, older document, in which the following is written in clear terms: "The canons are not entrusted with the care of souls, and this care rests with the rector, who has the power to entrust this care to any priest he deems suitable, and also to the Chapter, even if it is an external Chapter. In addition to this," it says, "the confession of the opposing party, the patron, must be considered, who, after stating that since the year 1803 the care of souls has belonged to the ten canons, asserts that no other rights belong to the other canons, except the right to participate in the Chapter meetings and to express a deliberative vote: 'From that time, since the year 1803, this change also took effect in the collegiate Chapter. While the rights exclusively belonging to the ten canons, representing the ancient and original Chapter, remain firm and complete, the right was granted to all the canons, in addition to those ten, to participate in the Chapter meetings and to express a deliberative vote therein.'" Finally, this is further confirmed by a certain appeal, which the president of the Fabric Matris, who is the rector of the Chapter, presented to the Bishop, in which the following noteworthy points are read: "Your Excellency is aware that those who are obligated to assist and supplement the parish priest are only two of the ten canons; while the other canons contribute their services solely out of zeal for the glory of God and for love of their country." Therefore, from the documents presented and from the confession of the opposing party, it is clear that the actual care of souls does not belong to all the canons, but to the rector and to the two priests designated as vicars, or canons.

[*Latin ed. p. 686*]

386 VENTIMILIEN. Concerning those called "decimal canons," the Bishop concludes that not all canons, but only the Provost and two decimal canons, have the right to appear in court and to challenge the episcopal decree of October 22, 1888. However, he continues, it is clear that none of them can appear in court and repeatedly challenge the aforementioned decree. Indeed, with regard to the Provost, he argues that this is not permissible, because the Provost freely and willingly gave his consent to such a decree. And this, he says, is evident from several letters, which he cites, written both by the Provost himself and by the secretary of the Chapter, in which it is explicitly stated that the decree,

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by which the establishment of the church of St. Stephen as a parish is recognized, was not only accepted by the Provost, but also by a large part of the parishioners. He insists that it cannot be doubted that these two remaining decimal canons also have no right to appear. He argues that Canon Saccheri is not permitted to appear because, being unfit to hear confessions and unaccustomed to giving sermons, he is in no way able to exercise pastoral care. He concludes that Canon Sghirla is not permitted to appear because, since he performs the duties of a pastor in the church of St. Stephen, he is currently fighting against the Chapter alongside the Bishop in the present trial. After these remarks, in order to dispel doubts, he points out that what is objected against him is contrary to the truth, namely, that the Bishop has disposed of a large sum of money in favor of the new parish, a sum which, it is alleged, Blancha Sghirla freely left for charitable causes. And he proves the falsity of this claim by presenting the last will and testament of Blancha, from which it is clear that Blancha, in her final will, stipulated that the nephew, Canon Sghirla, should use the sum of money that she might leave, not for charitable causes, but to pay for funeral expenses and for the benefit of her own soul. He adds that it is not consonant with the truth that his opponents claim that the establishment of the parish was not necessary.

[*Latin ed. p. 687*]

VENTIMILIEN. 687. It is, indeed, to be considered superfluous, both because the church of Saint Stephen is deficient in the distance prescribed by the sacred canons from the mother church of Saint Syri, and because, for many years, a rector has been instituted in the church of Saint Stephen, who assists the parish priest and administers the sacraments to the surrounding people. Indeed, the Bishop asks, if, in the year 1852, Pope Pius IX deemed it necessary and urgent to divide the town of Saint Remy, which barely exceeded nine thousand inhabitants, into two parishes, and if the rector of Saint Stephen was appointed with his own jurisdiction and a separate and distinct territory, in order to better attend to the spiritual needs of the parishioners of the mother church; how can it be asserted that the decree of the year 1888, by which, in order to better attend to the spiritual needs, the rector of Saint Stephen was formally declared a parish by the Bishop, was not necessary, but rather superfluous, when it is clear from the facts that he had been considered as such since the year 1852? Furthermore, the reason based on the lack of distance is also flawed, both because, by the aforementioned decree, the Bishop did not erect the church of Saint Stephen into a parish, but rather recognized that it had already existed as such since the year 1852, and also because, if this reason were valid, it would apply to many other parishes. Finally, the other reason should not be given greater weight, namely, that the church of Saint Stephen was sufficiently and even abundantly provided for by the institution of a rector

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who administered the sacraments to the people. For it is well known in law that rectors or coadjutors do not provide for the spiritual needs and necessities of the parishioners as well as the proper pastor. Indeed, the proper parish priest better protects and knows his flock than a rector or coadjutor. Especially because it is considered that in parishes, the people tend to have greater confidence in the parish priest than in their chaplains or assistants, who often do not provide everything to the faithful, nor do they treat them as their own. This last point is inconvenient in every way, and...

[*Latin ed. p. 688*]

688 VENTIMILIEN. It would be to be feared in the case, when it is a question of a rector, who had not been able to hope for any, or even the smallest, recompense from his labors. Furthermore, the Bishop demonstrated that the parish of St. Stephen was not superfluous, but useful, not only because of the manner in which the administrator of St. Syri acted, by which he recommended it with words, both when he was still a candidate; but also because of the manner in which a greater and more sensible part of the inhabitants acted, who congratulated the Bishop, and who, having finally declared that the subsidiary church of St. Stephen should be an independent parish, by decree of October 22, 1888. Considering these and other important reasons, the Bishop concluded that the decree by which the establishment of the parish of St. Stephen was recognized, under the date of October 22, 1888, should be maintained in full force, and therefore, the following question should be dismissed: Whether one should adhere to or depart from previous decisions in this case. RESOLUTION. The Sacred Congregation of the Council, after maturely examining the reasons presented by the Bishop, decided on February 28, 1891, to respond: One should depart from previous decisions; that is to say, the decree of the Bishop of October 22, 1888, should be upheld and maintained; and, *considering the declaration of the Bishop*, those things should be removed from the records which are injurious to the aforementioned Bishop and are contrary to his intentions. NUSCO. NEGLIGENCE IN SERVICE. On January 30, 1891. Session 24, chapter 12, and session 22, chapter 3, concerning the Apostolic Reform, a rescript of July 2, 1887, from the Sacred Congregation of the Council, "granted the Bishop of Nusco the faculty of conferring vacant canonries and hebdomadariates after the disposal of the church's goods, by means of letters from the episcopal curia, under the following conditions."

COMPENDIUM OF THE MATTER.

[*Latin ed. p. 689*]

NUSCO 689: "Let it be decreed that those who hold a canonry or hebdomadary, and who are thereby obligated to diligently fulfill the choral

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office pertaining to their respective benefice, shall be so diligent in the performance of their duty, that, unless the negligence of any individual prevents the imposition of a fine according to the law, it shall be understood that such individual has, by that very fact, forfeited his benefice, if, for six months, whether consecutive or interspersed, within each year, he shall be absent from the service of the choir without a legitimate cause."

Indeed, recently, in a communication concerning his church to chapter IX, post, the same Bishop of NUSCO stated: "Given the present condition of churches, which have been deprived of their temporal goods by the government, it has happened that some clerics, whether of collegiate or beneficed status, have been deprived of their pensions and are enjoying only adventitious emoluments. For this reason, many, to the complete or frequent neglect of the ordinary service of the choir or church, resort to extraordinary gains. Therefore, in order to avoid such a scandal, I inquire: How can we, on the one hand, prevent the reception of clerics into the church, even if such clerics, through their negligence, cannot be legally compelled to perform their duties, and, on the other hand, ensure that those who are negligent in the service of the choir do not enjoy the emoluments of their benefice, whether adventitious or from other sources?"

And in other subsequent letters, mentioning the rescript of July 2, 1877, as previously recounted, the same Prelate again inquired: "Can this penalty, namely, the deprivation itself, be applied to those negligent individuals about whom we are speaking, even if the collation of the benefice was not made according to the law, and even if they have not been granted an indulgence, if they are absent from the service for six months, whether consecutive or interspersed, without a legitimate cause?"

Synopsis of the Discussion. The question presented in this document appears to be more a matter of prudence and equity than of law. For, those clerics who have been legitimately admitted to the possession of a canonry or benefice in a collegiate or beneficed church, by one means or another, it matters little, although they do not receive the fruits of the benefices due to the abusive spoliation by the tax authorities, nevertheless, without a doubt, the canons and...

[*Latin ed. p. 690*]

Those who participate [in a benefice] truly fulfill their obligations. This, indeed, follows from chapter 9 of De constantiis, canon 9 and 19; and from chapter De prueben, canon 70; and most recently, the Sacred Congregation of Councils approved this in the Decree "Einen. Canonicalis" on March 29, 1890. (1) Furthermore, it is clear to all that those who are canonically instituted or appointed to a benefice, by reason of the benefits attached to their office, are bound, and that this obligation arises both from the office they have voluntarily undertaken, and perhaps urgently accepted, and therefore, as if by a contract; and also from the honor and the temporal

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advantage which they are said to receive, to perform daily service according to the strictness of the law. And therefore, it is also possible to compel them to perform the required service through canonical penalties, as the aforementioned principles clearly demonstrate. Indeed, if their negligence is such that the district suffers, and greater scandal and reproach arise among the people, as is said in the case at hand, then it seems necessary to proceed against them. There are two ways by which the law prescribes to correct the negligence of the clergy: one, as the old law in chapter "Ex tuae De der. non resia" indicates; and the other, as the Council of Trent, session 24, chapter 12, established. For the Council of Trent decreed that anyone who is absent from his residence for more than three months and does not perform his duties, "in the first year, shall be deprived of half the fruits, which he has received by reason of his benefice and residence; and if he again uses the same negligence, he shall be deprived of all the fruits which he has earned in the same year; and if he persists in his obstinacy, let proceedings be taken against him according to the constitutions of the canons," that is, let him be deprived of the benefice itself, as the Sacred Congregation of Councils has declared repeatedly, and notably in the Decree "Nullius Guastatine Privat. Mansión" of July 31 and August 28, 1860, and earlier in the Decree "Firmana Privat. Canon." of May 30, 1665, and in other instances. However, in the aforementioned decree of the Council of Trent, the Fathers did not abolish those things which were established in the old discipline, and especially in chapter "Ex tuae De cler. non resia." Therefore, within that three-year period mentioned in the decree of Trent, it is permissible for Bishops... [The passage continues, but the provided text ends abruptly.]

[*Latin ed. p. 691*]

In NUSCANA, it is permitted to suspend negligent and stubborn clerics from their ecclesiastical duties and to impose other penalties upon them, even if they have begun to follow the path indicated by the Council of Trident. However, if they do so, they cannot be subjected to the ultimate penalty of deprivation. A notable decree on this matter was issued in Parentina on November 8, 1673, to which the Sacred Congregation for Bishops subsequently always referred, in which, concerning two doubts, "whether, during the three years prescribed by the Sacred Congregation in Session 24, chapter 12 of the reform, it is permissible to proceed against those holding dignities, canonries, prebends, or portions in cathedrals or collegiate churches, and who do not reside there, according to chapter 'Ex tuae Be cler. non resia'? " - and, to the extent that the answer is affirmative - whether this is also permissible after the commencement of the procedure prescribed by the Council?" The Sacred Congregation for Bishops responded: "To the first, affirmatively; to the second, also affirmatively, excluding deprivation." And these things were said concerning canons; for with regard to those

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participating in parish churches, a more expeditious discipline has been established, so that the negligent may be brought back to proper service and residence. For in Asculana Participationum, where the matter concerned such churches, on November 18, 1662, it was inquired, "whether penalties of non-residence, both according to canon law and according to the Sacred Council, apply to those participating?" The Sacred Congregation for Bishops responded: "They do apply." However, not in the same way as for canons. For these participants, once warned, if they nevertheless persist in their absence, may be deprived of their participation, without, meanwhile, the degree prescribed by the Council of Trent for canons being observed, as may be gathered from Nullius Terrae Fasani Residentiae of January 3, 1762, concerning Lucidi, vol. 1, chapter 3, paragraph 2, number 108, Visit. S. S. Um. Analogous regulations are in force for participants, concerning instituted canons without a prebend, for the purpose of noted governmental usurpation, which the Sacred Congregation for Bishops extraordinarily sanctioned, and of which mention is made in this case. For, in order to restrain their negligence, it was permitted to declare that each one, by his very act, had forfeited his own benefit, who...

[*Latin ed. p. 692*]

692. If a cleric has been absent from the choir service for six months, either continuously or intermittently, in any given year. However, from the common principles of law, it is clear that this regulation, which is certainly stricter than others, and which was established for cathedral and collegiate churches provided by the Bishop through a special indult after the suppression of ecclesiastical goods, cannot, by itself, be extended to beneficed clerics, either in a different matter or at a different time; indeed, if we are dealing with a delicate matter, a more lenient interpretation must be given, according to rule 49 in VI. I said "by itself"; for nothing prevents the Holy Office, considering the novelty of the case, and the necessity of preventing public scandal, and of providing for the service of the Church, from establishing a stricter law for others, and extending it even to the case that the Nuscan Bishop proposes. Furthermore, it is permissible, out of a sense of equity and in favor of the accused, to observe that if the choir service that is neglected, and which the Bishop prefers to restore, is of a serious and prolonged nature, it does not seem entirely appropriate to subject those who receive no compensation, or very little, for their service to such a severe and sudden penalty. Therefore, let the Most Reverend Fathers consider whether, before resorting to measures of punishment against those who are negligent, there is room for moderation in the service, if indeed it is truly more burdensome, according to what civil law also suggests in the last books of the *De commodis*, and what the Sacred Congregation also recently established in the cited *Einen*, namely, that burdens should be proportionately reduced with the reduction of revenues. With these and

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other considerations, it has been deemed necessary to address the question: Can canonical or presbyteral clerics, who receive no certain emolument, be subjected to a penalty for failing to perform choir or church service in a case?

RESOLUTION. After discussing the matter, the Holy Office decided to respond: It is advisable to petition the Most Holy Father to issue a general decree extending the norm of the rescript of July 2, 1878, to all collegiate and cathedral churches.

[*Latin ed. p. 693*]

693 VICENSE. CONCERNING DISTRIBUTIONS. February 28, 1891. Through a summary of petitions. A COMPENDIUM OF THE MATTER. The Chapter of Vicense had recently requested this from the Most Holy See through a suppliant letter. They submit the following words: "It is requested that the right be granted to increase, establish, or distribute funds among the chapter members actually present, as an honorarium and reward for their diligence, and also for the greater labor which they undertake in the choir, due to the absence of others; however, it should be so that those who spend time away due to leave or vacation, nor the infirm who are not confined to their beds or homes and are prevented from attending Mass, should not participate in these distributions for the absent." "Most Holy Father, this grace is desired and hoped for by the Chapter; if, however, Your Holiness does not deem it expedient to grant it in the manner described, may Your Holiness at least deign to grant it in a suitable manner and with conditions acceptable to the Most Reverend and Most Reverend Bishop." The Ordinary, however, had the following to say: "The Cathedral Chapter requests the right to increase [funds], with certain restrictions, which I deem necessary, if Your Holiness deigns to grant this favor. Due to the great heat in summer and the great cold in winter, a canon is always absent from the cathedral, presenting a doctor's certificate, to protect him from the harshness of the climate; and it is to be feared that, if, instead of losing their place, they were to profit from the distributions of others, the number of absences would increase." "To avoid this inconvenience, these restrictions are proposed, and the Chapter would relinquish its right in requesting the favor it desires, provided that what is explained above be granted to them." "By decree of the Nuncio of Your Holiness in these regions, dated August 27, 1864, by Your Holiness's delegate..."

[*Latin ed. p. 694*]

694. Concerning the imposition of a tax on a certain matter; in which decree, the following words were written: "If it should seem advisable to assign the distribution of daily Masses to the conventuals from another source, the chapter shall decide with the approval of the Most Reverend

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Bishop." The chapter and the Prelate believed that they possessed the faculty to assign an alms of two livres with 50 centimes from the fund for absences, as a penalty, and not as a subsidy for the conventual Mass, whereas this fund had previously been entirely applied to the worship and fabric of the Church; so that in the statutes published in the year 1868, and declared by the Congregation of Councils – worthy of approval in each article – it is stated under number XIV: "That portion of the distribution which, according to the Fathers of Trent, ought to be added as a penalty for those absent, shall be distributed to the dignitaries and canons for the celebration of the conventual Mass, by means of a distribution granted by the Apostolic Nuncio, specially delegated to this purpose by the Supreme Pontiff, after consultation with the Bishop of the diocese." When some difficulty arose, whether the said faculty could be deduced from the words of the Most Reverend Nuncio, this distribution ceased, and, after being requested and obtained from the Holy See, it was restored, as was necessary. "Indeed, if His Holiness were to grant authority to the aforementioned practice, that is, to give two livres with 50 centimes daily from the fund for absences to those celebrating the conventual Mass, due to the diminution to which the clergy are subject and the difficulty of living in these times, the chapter would be satisfied, and would relinquish its right, and the service of the Church would remain more secure. In this case, I implore that the aforementioned sum may be distributed, as it has ceased to be done; and if anything remains, it should be applied to the fabric of the Church, to the celebration of Masses with a stipend of two livres by those present, or to other similar uses, according to the judgment of the Prelate and the chapter." On this day, August 9, 1889, a rescript was issued, ordering the Bishop to hear each of the capitulars in writing. When each of the capitulars, with the exception of one who was absent, had expressed their opinion, the Bishop wrote letters to...

[*Latin ed. p. 695*]

VIGEN. 695 The Sacred Congregation [of the Council of Trent] sent [a document], from which it is clear that, out of fifteen canons, ten propose a method for increasing [income], according to the prayers mentioned above; and five propose a stipend for the conventual Mass, according to the Bishop's wish. The canons strive to support their opinion, saying that this practice is either more in conformity with the Council of Trent, or more conducive to the attendance of the choir, or more in accordance with the custom received in many cathedrals of Hispaniae. However, two of them, namely Canons Serra and Villarasa, almost unconditionally agree to the method for increasing [income], namely, "provided that a stipend be taken from the mass offerings for the celebration of the conventual Mass." The other five, who agree with the Bishop's proposal, support their opinion, saying that "the aforementioned proposal, as the archpriest and doctor

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express it, is perfectly in agreement with our statutes, which the Sacred Congregation deemed worthy of praise and approval, and also with the memorable practice of this church, and it also provides sufficient support for the canons' sacred duty of celebrating the conventual Mass daily, which otherwise might be neglected." A similar sentiment is expressed by three others; but they demand further that any remainder, if there is any after the alms for the conventual Mass are paid, be spent either on votive Masses for the benefit of the people, or on compensation for a new choral office instituted weekly, or on an increase to the customary choral distribution. The Bishop, having transmitted all of this, reported the following; and I am permitted to confirm my initial understanding, that is, it is especially necessary that a sum be taken from the fund for absences to be used for the conventual Mass, and that the remainder, if any, be allocated to distributions in the manner of increasing [income], or in whatever way the Prelate and chapter deem most suitable... Therefore, I humbly implore that, considering the grace thus explained, and the poverty in which the canons labor, this be extended for the entire time during which they have not received a distribution, due to a doubt that I perhaps did not sufficiently ground, believing that the decree of the Reverend Nuncio, as mentioned in the prayers, does not at all comprehend the fund.

[*Latin ed. p. 696*]

696. Vich. From this point forward, the Prelate and the Chapter agreed to determine the distribution of the conventual Mass. "Synopsis of Discussions." It was noted, for the sake of clarity, that it appeared, without controversy, that in the Chapter of Vich, previously, the portion of the distributions lost due to the absence of members was not added to those present, but was applied to the church. The Bishop states this in the following words: "That fund, previously, had been entirely applied to the worship and fabric of the church." Furthermore, the Chapter expressly confesses this, demanding the right of accretion; for the discussion does not concern a penal sum of money arising from the failings or absences of the Chapter members, but rather, the majority of the canons requested the faculty of dividing that portion into the benefits of those serving, if the Chapter possessed the right of accretion. Finally, it is clearly indicated in the regulations for the calculation, a copy of which was transmitted to the records, where, among other things, in title 2, number 21, page 10, the following is read: "The amounts that are deducted from those who are absent due to lack of attendance at the choir will accrue to those who are present in proportion to their service, if the right of accretion is established." Furthermore, it is not necessary to investigate what may have happened previously, so that in the cathedral of Vich, the failings of those absent did not accrue to those serving, but were given to the church, since it is known

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that this could happen for one reason or another. Note, chapter 3, session 22 of the Council of Trent, where it is stated concerning dignities, through voices and offices, that "those who have not fulfilled their service... will lose the distribution of that day, and will not in any way acquire ownership of it, but it will be applied to the fabric of the church, as it may need, or to another at the discretion of the Ordinary." And although it often happens in Chapters that the portion of the distributions lost due to the absence of members is added to those present, indeed, it is said that this constitutes a common right, according to chapter "Customs of Boniface VIII" and chapter 12, session 24, and chapter 3, session 21 of the Council of Trent, because of those words - distribution.

[*Latin ed. p. 697*]

Vich. 697. Those who are present at the stated hours shall receive [something], while the others shall lack [it]; nevertheless, the true distinction, as Moneta explains in *Tractatus de distributionibus quotidianis*, part 1, question 3 and following, along with others, is this: whenever there is a single communal fund, or, if there is less, a single and undivided mass of resources, the right to increase [the distribution] shall prevail; but if the stipends are distinct, and, in order to encourage the diligence of each, a system of penalties is introduced for distributions from the common fund, then there is no right to increase, but, as stated above in chapter 3, session 22, the pecuniary penalty lost by the negligent must be ceded to the church or another pious institution at the discretion of the Ordinary. Furthermore, consideration must be given to the custom itself; for it is no secret that the most ancient usages and the statutes of churches have authority in these matters. Whatever may be maintained in this matter, whether it be by law or by the nature of the foundation of each stipend, or finally by the most ancient statutes of the church of Vich, or by custom, it is certain that the penalties of the absent have ceased to benefit the serving clergy, but rather for the good of the church. But this most ancient practice has ceased in these recent times. For it appears, indeed, and is clearly indicated by the records, that, as desired by the archpriest, the doctoral canon, and others, and even by the Bishop himself, the conventual Mass in the chapter of Vich has been accustomed to be celebrated without any alms from each individual, as a personal obligation, free of charge. Furthermore, in the definition of a certain controversy in the year 1864, at the urging of the Apostolic Nuncio, when the Bishop and the chapter decided "whether any distribution for the conventual Masses should be assigned from elsewhere," the chapter decided to apply the funds of the chapter, previously intended for the construction of the church, for this purpose. However, whether this was just, and whether it can now be restored, as requested by the Bishop with five canons, was deferred to the Fathers to define. One thing, however,

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concerning this matter.

[*Latin ed. p. 698*]

698. It seems necessary to observe that, since, according to the most ancient custom, the offerings of the absent belonged to the fabric of the church, it was not easily possible to remove them, and to expend them for the increase of the canonical stipend, that is, for the alms of the conventual Mass; but apostolic permission seemed necessary. However, whether this permission was granted or not is difficult to say; for the words of the Apostolic Nuncio, which are reported by the Bishop, do not suffice to fully ascertain the judgment of the matter. Furthermore, the chapter canons and the Ordinary themselves appear to be hesitant regarding this matter. For they quickly abstained from receiving the established stipend for the conventual Mass, and since various individuals held different opinions, a large accumulation of offerings resulted, and no cause was attributed to either party. Therefore, today, moreover, the Bishop requests that his petition be admitted, so that the aforementioned sum may be distributed, which has ceased to be done. Thus, in this matter, which is simple in itself, but obscure due to the circumstances and the exposition of the facts, the following seem to be the principal points of contention: 1. Whether the most ancient custom, by which the offerings of the absent were assigned to the fabric of the church, ought to be reformed, so that the same offerings should be expended in the future for another purpose. And, if affirmative, 2. Whether the same offerings ought to be applied to the stipend of the conventual Mass, and how; or rather, whether they ought to be divided among those who serve, according to the law, for the increase of the chapter, as the greater part of the chapter requires. And, if affirmative regarding the first point, affirmative regarding the second. 3. Whether and how provision should be made for the alms of the conventual Mass in this case. With these considerations, the question was raised as to what answer should be given in prayer. RESOLUTION. The Sacred Congregation, after deliberation on February 28, 1891, decided to respond: That, by virtue of the decree of August 27, 1864, the distribution assigned to the conventual Mass can legitimately be received, both for the past and for the future; but that the remaining offerings should be given more attentively to the cult and the fabric of the Church.

[*Latin ed. p. 699*]

699. FROM THE HOLY CONGREGATION OF THE SACRED ROMAN CONGREGATION FOR THE INQUISITION, concerning the use of wine in the Holy Sacrifice of the Mass, doubts presented by the Most Reverend and Most Reverend Lords, Bishops of Carcassonne and Marseilles.

Most Illustrious and Most Reverend Lord, by letters dated the 8th of February of the current year, you explained: To prevent the danger of wine

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spoiling, two methods are proposed: 1. A small quantity of eau-de-vie is added to the natural wine; 2. The wine is boiled and brought to a temperature of sixty-five degrees. And you inquired whether these methods are permissible for the wine used in the Sacrifice of the Mass, and which is to be preferred. On Thursday, the 4th of the current month, the Most Eminent Cardinals, General Inquisitors, were commanded to respond: The wine should be prepared according to the method described in the second place. And may the Lord grant you success in all things. From the fullness of our authority, in Rome, on the 8th of May, 1887.

Devoted and most obedient, I. D'ANNIBALE.

Most Blessed Father, John Louis Robert, Bishop of Marseilles, humbly prostrate at the feet of the Holy See, considering the following doubt to be submitted to the examination and judgment of the Holy See for the good of the religion, asks: In several parts of France, especially those located in the south, the white wine used in the unbloody Sacrifice of the Mass is so weak and impotent that it cannot be preserved for long, unless a certain quantity of wine spirit (alcohol) is added to it.

1. Is such a mixture permissible?

2. And, if affirmative, what quantity of this foreign substance may be added to the wine?

3. In the affirmative case, must the wine spirit be extracted from pure wine or from the fruit of the vine?

On Thursday, the 4th of July, 1890.

In the general congregation held by the Most Eminent and Most Reverend Cardinals, General Inquisitors in matters of faith and morals, having considered the aforementioned case, and with the vote of the Reverend Consultors preceding, the same Most Eminent Fathers wrote:

[*Latin ed. p. 700*]

700 FROM THE HOLY OFFICE. Provided that the spirit (alcohol) has been extracted from the grape, and the quantity of alcohol added, together with that which the wine naturally contains, does not exceed the proportion of twelve per cent, and the mixture is made when the wine is very fresh, there is nothing to prevent the same wine from being used in the sacrifice of the Mass. On the following Thursday, the 3rd of the month of July, after a report was made to His Holiness, Pope Leo XIII, his Holiness approved and confirmed the resolution of the Cardinals. I. MANCINI, S.R. AND U.I. NOTES. Concerning irregularities with regard to the sons of heretics. On the feast of St. John the Baptist, in the month of June, after the Reverend Bishop of Harlem had requested an examination of the questions raised on June 30th, number 2763, concerning the conferring of the sacred orders upon the sons of heretics, it was resolved that the same decree should also be issued in Posen, under number 1, on Thursday, July 25,

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1865, namely: — The sons of heretics, who persist in heresy and have died, are irregular, even in Germany, and in other places where heresies spread impudently. — Regarding what pertains to the past, it is added: — Let it be so; — and concerning the future, let the power be granted to add five years in each case concerning such irregularity. The Most Holy Father, on the same day, deigned to approve this resolution and to grant the requested power. Which, etc. DOUBTS concerning impediments to certain marriages, presented by the Apostolic Vicar of Sandviken. (Version 1. According to the laws of the country, we can and do indeed marry Catholics with Catholics, Catholics with heretics, Catholics with infidels, heretics with heretics, heretics with infidels, and infidels with infidels. 2. For Catholics with Catholics, we follow the ritual exactly, and we always take care that they confess beforehand.) 1. According to the laws of the place, marriages can be celebrated, and indeed are celebrated, between Catholics and Catholics, between Catholics and heretics, between Catholics and infidels, between heretics and heretics, between heretics and infidels, and between infidels and infidels. 2. Regarding Catholics with Catholics, we follow the ritual exactly, and we take care that the confession of sins precedes.

[*Latin ed. p. 701*]

3. Concerning Catholics who are to be joined with heretics or infidels, we first, for the sake of great security, receive the declaration of the Catholic party; and then we are content to ask for the consent of both parties.

4. Concerning others, we demand only the consent.

5. There is no doubt that, by virtue of our powers, we can join in marriage Catholics with Catholics, Catholics with heretics, or Catholics with infidels. But can we, with a safe conscience, as mere civil officials, receive the consent of a heretic with a heretic, of a heretic with an infidel, or of an infidel with an infidel, who claim to enter into marriage only according to the sense and limits of the civil law which admits of divorce?

6. When both parties, whom we have joined in marriage, are not both Catholics, can we again join in marriage the party who has obtained a decree of divorce?

7. If, may it not please God, two Catholics were to be married by Calvinist ministers, with the intention of entering into marriage only according to the sense and limits of the civil law, which admits of divorce, could we join in marriage the party who obtains permission from the government to marry another?

8. Our course of action in this case is to join in marriage, both initially and again, all those who obtain permission from the government to enter into marriage.

[*Latin ed. p. 702*]

702 FROM THE HOLY OFFICE: We are inexorable only towards

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Catholics whom we have validly married, and who wish, in virtue of the law of divorce, to enter into marriage again. We are inexorable only towards Catholics, whom we have validly joined in matrimony, who wish to enter into a second marriage according to the law of divorce. To these doubts, the Holy Congregation of the Office responded in the following manner: To the first: Provision will be made in what follows. To the second: It is well and properly done. To the third: The reason (or manner) described there for joining the contracting parties, about whom we are speaking, is not at all forbidden, provided that consent is given outside the Church without any blessing whatsoever, as is rightly prescribed by Pope Benedict XIV, in *De Synodo Dioecesana*, book V, chapter V, § 5, and provided that the conditions, which are mentioned below, are observed. To the fourth: Provision will be made in what follows. To the fifth: As for the first part of the question, the Holy Congregation of the Propagation of the Faith should examine whether the missionary, together with his missionaries, truly possesses the faculty of dispensing with the impediment of mixed religion and of disparity of cult. However, the aforementioned Apostolic Vicar should also remember that marriages of this kind are always to be detested, and that they should never be celebrated by a Catholic priest, nor contracted outside the Church, after the usual three conditions have been met, namely, the instruction of the entire family in Catholic truth, the free exercise of the Catholic religion, and the effort to convert the other party to the true faith. As for the second part of the question, it is forbidden for the missionaries, about whom we are speaking, to receive the consent of a heretic with a heretic, or of an unbeliever with an unbeliever. If the Apostolic Vicar of Lech foresees that a very grave harm will result to the Catholic religion from the refusal of this assistance by the missionaries, he should know that he must, in such a case, temporarily suspend the missionaries. But he must most diligently report everything to this Holy See, carefully and accurately stating what and how much damage would result, and referring in the utmost detail all the places, times, persons, and circumstances. He must also report whether our Catholics, or others, would be scandalized by the assistance of these Catholic priests, so that the Holy See may freely determine whether it is permissible for the missionaries of that region to be present at these marriages as "official," "civil," or even as qualified and authorized witnesses, only exhibiting a material and passive presence without any sign of approval and without any blessing. To the sixth and seventh: It is not permitted, unless it is established that the Marriage...

[*Latin ed. p. 703*]

FROM THE SACRED INQUISITION, 703: It has been declared that there was no impediment, whether due to the law of divorce, or due to some other impediment recognized by canon law. At Rivoli: The practice

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of which we are speaking is entirely to be avoided, especially if it concerns marriages between the faithful and heretics and infidels. Regarding the assistance that our missionaries provide to heretics contracting marriages among themselves, and to infidels, the aforementioned missionaries cannot lawfully provide such assistance to them, as was stated above in response to the fifth question.

FROM THE SACRED CONGREGATION OF THE INDEX, DECREE: On the feast day of Feria V, May 14, 1891. The Sacred Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Leo XIII and the Holy Apostolic See, concerning the Index of books of false doctrine, and their condemnation, suppression, expurgation, and permission throughout the Christian Republic, having met in the Apostolic Palace at the Vatican on April 24, 1891, has ordered and commands that the following works be referred to the Index of Prohibited Books, or be condemned and suppressed, or otherwise prohibited:

I. *Criterii Teologici. La storia de' Domini e la libertà delle Affermazioni.* A scientific work by Canon Salvatore di Bartolo. Turin, S. Giuseppe printing press, Collegio degli Artigianelli, Corso Palestron, 14, 1888. The author has commendably submitted himself and disapproves of the work.

II. *Filosofia della Rivelazione.* Essay by the Reverend Francesco Giovanzana. 2nd edition, revised and enlarged. Milan, presso Ramellini Andrea, 1881-1882.

III. A review of *La Civiltà Cattolica* and the philosophy of revelation by the Reverend Francesco Giovanzana. Bergamo, from the Cattaneo printing press, 1871.

IV. *Del Primato e dell'Infallibilità pontificia.* Dissertation by the Reverend Francesco Giovanzana. Bergamo, Gaffuri e Gatti printing press, 1874.

V. *Sulla esposizione di un punto capitcdissimo di dottrina Tomistica, Scolastica, Patristica, Scritturale.* Observations by the Reverend Francesco Giovanzana. Bergamo, Stab. tipografico fratelli Bolis, 1885.

VI. *Il dogma della Immacolata Concezione di Maria SS. propugnato nel suo senso ovvio e letterale contro certi cattolici che...* (The sentence is incomplete in the provided text).

[*Latin ed. p. 704*]

704 *Ex S. C. Indices* concerning the alteration thereof. Notes and explanations by the Reverend Father Giovanzana. — Bergamo, Printing Establishment of the Bolis Brothers, 1888. *S. F. G. Proposizioni da condannarsi* (Propositions to be condemned). — Bergamo, Printing Establishment, lithographic section of the Bolis Brothers, 1890. On the origin of human souls. Arguments, refutations, and testimonies by an author of the *Scuola Cattolica*. — Bergamo, Printing Establishment of the Bolis Brothers, 1886. Notes on the Critical Reflections of a Critic

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entirely lacking in judgment. — Bergamo, Printing Establishment of the Bolis Brothers, 1886. The sincere friend of young people. — Cremona, Printing of Giovanni Foroni, 1890. Moral and Practical Guide for Mothers of the People, by Virginia Paganini. Second edition, revised and corrected. — Florence, Typographic Cooperative, Via Monaldan, 1, 1889. *Histoire du Peuple d'Israel* (History of the People of Israel), by Ernest Renan, member of the Institute, Professor at the College of France, Volumes 1, 2, and 3. — Paris, Calmanti Lévy, publisher, Rue Auber 3, and Boulevard des Italiens 15, at the Nouvelle Library, 1889, 1891. *L'Initiation*, a philosophical review independent of higher studies. Hypnotism, Theosophy, Kabbalah, Freemasonry, occult sciences. — Editorial office, 29 rue de Trevise, Paris. Elementary course of philosophy, prepared in accordance with the program of the Baccalaureate in Letters of January 22, 1885, by Mr. Théodore Deimonte, Licentiate in Letters. Second edition, revised, corrected, and considerably augmented. — Paris, Putois-Cretté, bookseller-publisher, Rue de Rennes 90, 1888. Decree of April 13, 1889. The author commendably submitted and approved the work. *Les Congrégations Romaines*, a historical and practical guide by Felix Grimaldi. — Sienne, San Bernardino Printing Establishment, 1890. Decree of the Holy Office, on Thursday, April 29, 1891. Therefore, no one, of whatever rank and condition, may dare to publish, read, or retain the aforementioned works, in any place or language, nor may they be published henceforth, but they must be handed over to the Ordinaries of the places, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of prohibited books. These matters, having been related to me, the undersigned, S. I. C. (Sacred Congregation of the Index), to the Most Holy Lord Pope Leo XIII, His Holiness approved the Decree and ordered it to be promulgated. In whose faith, etc. Given in Rome, on May 14, 1891. CAPELLUS, Cardinal Gazzella, Prefect. FR. HYACINTHUS FRATI, of the Order of Preachers, S. Ind. (Sacred Congregation of the Index).

[*Latin ed. p. 705*]

705 FROM THE CONSISTORY ACTS Concerning the Consistory held on June 1, 1891. On Tuesday, June 1, 1891, a secret Consistory was held in the Vatican, at which His Eminence Cardinal Melchers presented the Pallium of the Sacred Roman Church College to His Holiness the Pope, and His Eminence Seraphino Vannutelli, the Chamberlain of the Sacred Roman Church College, was present. Afterwards, His Eminence Cardinal Zigliara, having relinquished the deaconry of Saints Cosmas and Damian, was raised to the Order of the Priesthood, and chose the title of Saint Praxedis; His Eminence Cardinal Ricci Paracciani, having relinquished the deaconry of Saint Mary in Portico, was raised to the Order of the Priesthood, and chose the title of Saint Pancratius; His Eminence Cardinal Verga, having relinquished the deaconry of Saint Angel in Foro Piscium, chose the title of Saint Mary in Via

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Lata. The Supreme Pontiff spoke and created the following Cardinals of the Order of the Priesthood: Reverend Father Aloysius Roteili, Archbishop of Farsaglia, as Apostolic Nuncio to the French Republic, and Reverend Father Anthony de Paulo Gruscha, Archbishop of Vienna in Austria. Afterwards, he proposed the following churches: The titular archiepiscopal church of Patren, vacant due to the death of the Most Reverend Philip Gallo, the last of those archbishops who died outside the Roman curia, in favor of Reverend Father Joseph Maria Costantini, Bishop of Nepesino and Sutri. The titular archiepiscopal church of Larissa, vacant due to the death of the Most Reverend John Rebello Cardoso de Menezes, the last of those archbishops who died outside the Roman curia, and he reported on the qualities of Reverend Father Augustine Ciasca, a priest of the Order of Saint Augustine, of the Monopoli diocese. He was born in the city of Poliniano, by the sea, under the diocese of Monopoli, of legitimate, Catholic, and honest parents, and having surpassed his fiftysixth year of age, he attained the degree of Master and performed the duties of General Procurator in the aforementioned Order; he was attached to the Vatican library among the writers for oriental languages, and among the Consultors of the Holy Roman and Universal Inquisition, and also in the Congregation of Propaganda Fide, first as a member of the Commission for reviewing the reports of dioceses and vicariates of the Latin rite, and then as President of the Interpreters for the affairs of the Oriental Rites. He was Dean of the Pontifical Seminary of the Oriental Philological College, and he had previously relinquished the position of Professor of the Hebrew language. Acts, Volume XXIII, page 526.

[*Latin ed. p. 706*]

706 FROM THE CONSISTORY ACTS: The Cathedral Church of Peace in the Bolivian territory of South America is vacant, due to the death of the Reverend Monsignor John of God Bosque, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Dominic, Bishop of the Holy Cross of Sierra. The Cathedral Church of Ariminum is vacant, due to the death of the Reverend Monsignor Alexander Chiaruzzi, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Dominic Fegatelli, Bishop of Tifernum, or Città di Castello. The Cathedral Church of Città di Castello, or Tifernum, is vacant, due to the translation of the Reverend Father Dominic Fegatelli to the See of Ariminum, with the favor of the Reverend Father Darius Mattei-Gentili, Bishop of Sarsina. The titular Episcopal Church of Echinus is vacant, due to the death of the Reverend Monsignor James Ryan, the last Bishop of that titular See, who died outside of Rome, with the favor of the Reverend Father Anthony Thomas da Silva Leitao, the Antistite of Angola and Cunga Féchin, who was also designated as a coadjutor with future succession to the Reverend Father Anthony of the Trinity de Vasconcellos Pereira de

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Mello, Bishop of Lamego. The Cathedral Church of Angola and Cunga Féchin is vacant, due to the translation of the Reverend Father Anthony Thomas da Silva Leitao e Castro to the titular Episcopal Church of Echinus, with the favor of the Reverend Father Anthony Dias Ferreira, the titular Bishop of Thermopylae, and the Prelate of Mozambique. The titular Episcopal Church of Sidon is vacant, under the Archbishop of Tyre, due to the translation of the Reverend Father Joseph Ingami to the See of Rome, who recently passed away, with the favor of the Reverend Father William Anthony Fioni, the Bishop of Larino, who has been relieved of his duties. The Cathedral Church of Como is still vacant, due to the death of the Reverend Monsignor Peter Carsana, the last Bishop of that See, who died outside of Rome; for the Reverend Father Aloysius Nicora is Prefect of the same Cathedral, and although he received the consecration, he cannot obtain possession of it, due to the vicissitudes of time, with the favor of the Reverend Father Andrew Ferrari, Bishop of Guastalla. The Cathedral Church of Eugubium is vacant, due to the death of the Reverend Monsignor Innocent Sannibale, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Aloysius Lazzareschi, a Priest of Rome. The Cathedral Churches of Sutri and Nepes are perpetually and canonically united, and are vacant, due to the translation of the Reverend Father Joseph Mary Constantine to the titular Archiepiscopal Church of Palerme, with the favor of the Reverend Father Generosus Maltei, a Priest of Tivoli. The Cathedral Church of Venusia is vacant, due to the translation of the Reverend Father Francis Mary Imparati, of the Order of the Friars Minor of the Observance of Saint Francis, to the united Metropolitan Sees of Acerenza and Matera, with the favor of the Reverend Father Lawrence Antonelli, a Priest of the diocese of Marsorum. The Cathedral Church of Concha is vacant, due to the death of the Reverend Monsignor John Mary Valero, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Pelagius Gonzalez Conde, a Priest of the diocese of León. The Cathedral Church of Teruel, to which the Church of Albarracín is to be united according to Apostolic Letters entitled "Ad Vicariam," dated the ninth of September 1851, is vacant, due to the death of the Reverend Monsignor Anthony Ibanez and Galiano, the last Antistite of that See, who died outside of Rome, with the favor of the Reverend Father Maximian Fernandez del Rincón and Soto, a Priest of Jaca, for presentation to the Most Serene Queen Regent of the Catholic Kingdom. The Cathedral Church of Pacé is vacant, due to the death of the Reverend Monsignor Ferdinand Ramírez and Vásquez, the last Bishop of that See, who died outside of Rome, with the favor of the Reverend Father Francis Saenz de Urturi and Crespo, of the Order of Saint Francis, a Priest of the diocese of Vitoria, for

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presentation to the Most Serene Queen Regent of the Catholic Kingdom.

[*Latin ed. p. 707*]

707. The Cathedral Church of the Canaries, vacant due to the translation of the Reverend Father Joseph Pozuelo and Herrero to the See of Segovia, with the favor of the Reverend Father Francis Joseph Cueto and Diez de la Maza, a priest of the diocese of Santander and of the Order of Preachers of Saint Dominic. The Cathedral Church of La Palma, vacant, due to the death of the Most Reverend Raymond Fernandez and Lafita, the last bishop, who died outside the Roman curia; with the favor of the Reverend Father Joseph Lopez Mendoza and Garcia of the Order of Saint Augustine and a priest of the archdiocese of Burgos, for presentation to the Most Serene Queen of the Catholic realm, who is regent. The Cathedral Church of Argentina, vacant, due to the death of the Most Reverend Peter Paul Stumpf, the last bishop, who died outside the Roman curia, with the favor of the Reverend Adolph Fritzen, a priest of the diocese of Münster. The titular Episcopal Church of Himeria, under the Archbishop of Edessa, vacant, due to the death of the Most Reverend Francis Mazzuoli, the last bishop, who died outside the Roman curia, with the favor of the Reverend Anthony Joseph Souza Barroso, a priest of the archdiocese of Braga. The titular Episcopal Church of Calydon, under the Archbishop of Naupactus, vacant, due to the death of the Most Reverend Louis Caracciolo, of the House of Castaneta, who died outside the Roman curia, with the favor of the Reverend Father Michael Zezza and the Barons Zapponeta, a priest of Naples; who was also appointed as an Auxiliary to the Most Eminent and Reverend Lord William, titled Saint Clement, a Cardinal Priest of Sanfelice, Order of Saint Benedict, Archbishop of Naples, for pontifical and other pastoral duties, with his consent and willingness, to be carried out diligently and fruitfully in the Lord in that city and archdiocese. The titular Episcopal Church of Daulien, under the Archbishop of Athens, vacant, due to the death of the Most Reverend Joseph Mary Benedict Serra, the last bishop, who died outside the Roman curia, with the favor of the Reverend Anthony Buglione, a priest of Saint Angel of Lombardy; who was also appointed as an Auxiliary to the Reverend Father Salvator Nappi, Archbishop of Campania and administrator of Campania, for pontifical and other pastoral duties, with his consent and willingness, to be carried out diligently and fruitfully in the Lord in that city and archdiocese.

FROM THE OFFICIAL CONSISTORY ACTS:

Regarding the Consistory held on June 4, 1891. On Friday, June 4, 1891, a public Consistory was held in the Royal Hall of the Apostolic Palace at the Vatican, at which Our Holy Father presented the crimson pontifical vestments to the Most Reverend Cardinals Vincent Vannutelli and Albino

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Dunajewski. After an interval, the Consistory Advocate, Knight Torquatus Aloisius Tongiorgi, spoke for the first time concerning the beatification and canonization of the Venerable Servant of God, Canon Joseph Benedict Cottolengo, a secular priest of Turin. After the Supreme Pontiff gave his blessing, and the pontifical singers sang the Te Deum, all the Cardinals went to the Sistine Chapel, where the Most Reverend Cardinal Dean offered a prayer for the newly created Cardinals, who then all ascended to the upper hall to await the arrival of the Supreme Pontiff for the secret Consistory.

[*Latin ed. p. 708*]

708 FROM THE CONSISTORY ACTS: In that secret Consistory, the Supreme Pontiff addressed the Cardinals Vannutelli and Vincent, and Dunajewski, and proposed the following sees: The Metropolitan Church of Saint Faith in Bogota, in Colombia, for the Reverend Father Bernardo Herrera Reslrepo, promoted by the Medellin See, which he retains in a provisional administration. The titular Episcopal Church of Marcopolitan was proposed for the Reverend Father Emmanuele Tovar, Dean of the Chapter of Limani, and for His Holiness's Domestic Prelate. Having stated these things, His Holiness assigned the sees through His Letters, namely, Breves, providing for the following: He, in effect, resigned the archbishops: Cabassen, the Venerable Brother Gaudentius Bonfigli; Casien, the Bishop for Syria and Aleppo, elected as Apostolic Vicar; Hiempolitan, the Venerable Brother Charles Aslanian, appointed from Adana of the Armenian rite, as Auxiliary to the Armenian Patriarch of Cilicia; Milwankien, the Venerable Brother Frederick Katzer, promoted from the See of Sinud viridis; Bamberg, the beloved son Joseph Scorh, from the diocese of Herbipolis, Doctor of Sacred Theology, Pro-Synodal Examiner, and Canon Prebendary in his Cathedral. Beryten, the beloved son Joseph Hilarion Montèty, from the Congregation for Missions, Apostolic Delegate to Persia; Leontopol, the Venerable Brother John Langevin, retired Bishop of Saint Germain. He transferred from their own sees to the sees of Antigonea, the Venerable Brother Julius Marsili, of the Order of Friars Minor Observant, who had bid farewell to Sappens; Neo-Westmerien, the Venerable Brother Paul Durieu, of the Order of the Discalced Carmelites, transferred from the titular see of Marcopolitan; Saint Sebastian of the River of January, Joseph Pereira da Silva Barros, Bishop of Olinda; Laci-Salsi, newly erected by His Holiness in the confederation of America, the Venerable Brother Lawrence Scanlan, Bishop of Lavada; Omàhen, the Venerable Brother Richard Scanneil, Bishop of Concordia in America; Sappens, the Venerable Brother Lawrence Petris de Dolammare, Bishop of Pult. He provided for the following sees with beloved sons, namely: Lausanen and Geneva, for the priest Joseph Deruaz of Geneva; Montisvidei, for the priest Mariano Soler of the Diocese of

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Montisvidei.

[*Latin ed. p. 709*]

From the Consistorial Acts:

Goyasensi, in Brazil, to Edward Duarte Silva, a priest of the Diocese of Saint Sebastian of Fluminis January. Huanuaensi, to Alphonso Maria of the Cross, of Sardinas, Ferdinand, of the Order of Saint Francis, a priest of the Diocese of Huanuca. Londonensi, to Dionysius O'Connor, Rector of Saint Basil in London, within the Diocese. Alexandriae, recently erected by His Holiness, to Alexander Mac-Donnell, General Vicar of Kingston. Lahorensi, to Emmanuel Alphonso Van den Bosh, of the Minor Capuchins. Daccae, to Augustine Lanage, Provincial of the Institute of the Holy Cross in France. Pulatensi, to Nicholas Marconi, of Trent, from the reformed Franciscan Province of Saint Vigil. Dallasensi, recently erected by His Holiness, to Thomas Brennan, of the Diocese of Erie, Rector of the parish of Dristword in that Diocese.

Furthermore, the following individuals were appointed to titular sees, as indicated below:

Thebanam, to Anthony Sabbatucci, of Ascoli Piceno, a priest of the Asculani Picenorum.

Tricalesem, to Coloman Belopoloczky, a priest of the Diocese of Zips.

Anemuriensem, to Richard Isàsa, a priest of the Diocese of Montevideo; who was also appointed as an auxiliary to the Most Reverend Mariano Soler, Bishop of Montevideo, for pontifical and other pastoral duties, with his consent, to be performed in the city and Diocese.

Capitoliensem, to Paschal Appodia, Doctor of Sacred Theology and Canon of the Patriarchal Church of Jerusalem, and Vicar General in spiritual matters for that Patriarch.

Cucusiensem, to Aloysius Wahl, of the Diocese of Rottemburg, Counselor at the Consistory of Dresden, and also pastor of the Royal Court and Royal Hall, appointed as Apostolic Vicar of Saxony and Apostolic Administrator of Lusatia.

Aulonensem, to Peter Verdaguer, of the Diocese of Monterrey, elected as Apostolic Vicar of Brownsville.

Melien, to Gustavo Carol Mutel, from the Seminary of Foreign Missions of Paris, appointed as Apostolic Vicar of Korea.

Zelensem, to Lawrence Blettery, from the Seminary of Foreign Missions of Paris, appointed as Apostolic Vicar of Se-Ciuen Oriental in China.

Teiensem, to Mark Hudrisier, of the Order of Capuchins, elected as Apostolic Vicar of the Seychelles Islands.

Iborensem, to Emilio Grouard, of the Oblates of the Immaculate Conception, elected as Apostolic Vicar of Athabaska Mackenzie.

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Sinidensem, to Philip Prospero Augonard, of the Congregation of the Holy Spirit and the Immaculate Heart of Mary, appointed as Apostolic Vicar of the Upper Congo, recently erected by His Holiness.

Telmyssensem, to John Hofmann, of the Minor Recollects of Holland, elected as Apostolic Vicar of Scian-si Meridional in China.

Calyndensem, to Alexander Berlioz, from the Seminary of Foreign Missions of Paris, appointed as Apostolic Vicar of Hacadati in Japan, recently erected by His Holiness.

[*Latin ed. p. 710*]

710 FROM THE CONSISTORY ACTS: Comanense, John Baptist Chausse, from the Seminary of Lyons for the Missions of Africa, was elected as Prefect Apostolic of Cape Coast. Mosynopolitan, Albert Pascal, from the Oblates of Mary Immaculate, was appointed as Apostolic Vicar of Sas-Katchevanen, recently established by His Holiness. Tagaste, Anatolio Toulotte, was appointed as Coadjutor to the Most Reverend and Most Reverend Cardinal Lavigerie, to administer the Apostolic Prefecture of the Sahara. Sidymorum, Theophilus Meerschaert, General Vicar of Nalchet, was elected as Prefect Apostolic of the Territory of the Indians. Furthermore, the Most Holy Father proposed the following appointments: The Cathedral Church of Troia, vacant due to the death of the Reverend Monsignor Thomas Passero, the last Bishop, who died outside of Rome, with the favor of the Reverend Father Daniel Tempesta, of the Order of Minor Regulars of St. Francis, Bishop of Trivento. The Cathedral Church of Larinen, vacant due to the voluntary resignation of the Reverend Father Vito Antonio Fioni, now in the hands of His Holiness, with the favor of the Reverend Father Bernardine di Milia, of the Order of Capuchin Minor Friars, Titular Bishop of Tabraca. The Cathedral Church of Trivento, vacant due to the translation of the Reverend Father Daniel Tempesta, of the Order of Regular Canons of St. Francis, to the See of Troia, with the favor of the Reverend Father Julius Vaccaro, priest of Naples. The Cathedral Churches of Isernia and Venafro, perpetually and canonically united, are vacant due to the translation of the Reverend Father Agnelli Renzullo to the See of Nolana, with the favor of the Reverend Father Francis Paul Carrano, priest of Benevento. The Cathedral Church of Tulancingo in the territory of Mexico, in North America, is vacant due to the death of the Reverend Monsignor Augustine Torres, the last Bishop, who died outside of Rome, with the favor of the Reverend Father Joseph Mary Armas, priest of the Diocese of Guadalajara. The Cathedral Church of Pasto, in the Confederation of Colombia, in South America, is vacant due to the translation of the Reverend Father Ignatius Telasco from the Society of Jesus to the Metropolitan See of St. Faith of Bogota, with the favor of the Reverend Father Joachim Pardo Vergara, priest of St. Faith of Bogota. The titular Episcopal Church of Cibistra, under the Archbishop of Tyana, is

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vacant due to the death of the Reverend Monsignor Martin Poell, the last Bishop, who died outside of Rome, with the favor of the Reverend Father John Katschthaler, priest of the Archdiocese of Salzburg; who was also appointed as an Auxiliary to the Reverend Father John Haller, Archbishop of Salzburg, for pontifical and other pastoral duties in that city and archdiocese, with his consent and good will. The titular Episcopal Church of Lorien, under the Archbishop of Boston, is vacant due to the death of the Reverend Monsignor Venceslaus Soie, the last Bishop, who died outside of Rome, with the favor of the Reverend Father Joseph Mary Carpenter, priest of Arequipa, who was also appointed as an Auxiliary to the Reverend Father Emmanuel Anthony Bandini, Archbishop of Limana, for pontifical and other pastoral duties in that city and archdiocese, with his consent and good will. The titular Episcopal Church of Paphia, under the Archbishop of Salamina, is vacant due to the death of the Reverend Monsignor Maturinus Picoardo, the last Bishop, who died outside of Rome, with the favor of the Reverend Father Charles Marbach, priest of Strasbourg, in the Diocese of Strasbourg, who was also appointed as an Auxiliary to the Reverend Father Adolph Fritzen, Bishop of Strasbourg, for pontifical and other pastoral duties in that city and diocese, with his consent and good will.

[*Latin ed. p. 711*]

FROM THE ACTS OF THE CONSISTORY, 711. After these things, Holiness [the Pope] heard the petitions of Cardinals Vannutelli, Vincent, and Dunajewski, and it was decreed concerning the Pallium for the Metropolitan of Bamberg, as well as for Bogota, Milwaukee, and Evora, in favor of the Reverend Father August Edward Nunes, who succeeded him as coadjutor in that Church, and for the Cathedral of Troia, by the privilege of the Most Holy Pope Pius IX. Finally, Holiness assigned to Cardinal Vannutelli, Vincent, the presbyteral title of Saint Sylvester in Capite, and to Cardinal Dunajewski, the titles of Saints Vitalis, Gervasius, and Protasus.

FROM THE HOLY CONGREGATION OF THE COUNCIL OF PARIS, CONCERNING MARRIAGE, January 31, 1891, Session 24, Chapter 1, On Reform.

SUMMARY OF THE CASE. On April 12, 1887, in the parish church, commonly called Neully-sur-Seine, of the diocese of Paris, the marriage of Mr. Charles Normand and Miss Maria Carolina Legrand took place, by the words of the present. However, the unfortunate woman was forced to return to her parents' home ten days later, solely because the husband was weary of living a common life with the same woman. This event aroused the indignation of the woman's parents, and through their vehement intervention, it happened that the common life was again restored between the spouses. However, on June 8 of the same year, this outcome was reversed, as the aforementioned Mr. Normand abandoned

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the conjugal home, no longer intending to live with his wife. Under these circumstances, the woman initiated a case concerning the nullity of the marriage before the Parisian Tribunal, which on June 26, 1888, rendered a judgment in favor of the woman, due to the lack of true consent on the part of the husband, or rather, due to the evidently understood condition.

[*Latin ed. p. 712*]

712. In Paris, a marriage was contracted which was deemed dissoluble, contrary to the good of the sacrament. The defender of the marriage appealed against this judgment. A Synopsis of the Dispute. THE OPINION OF A THEOLOGIAN. He stated that it must be inquired whether the judgment rendered by the Parisian court should be confirmed or not. To form this judgment, certain considerations must be presented, from which, of their own accord, the solution of the case arises. Firstly, it is established in law that a marriage is entirely null and void whenever it is contracted with a condition that is contrary to and repugnant to the good of the sacrament. This is so certain among theologians and canonists that it is entirely unnecessary to confirm it with arguments. Rather, the question arises as to what arguments should establish this. Some believe that the marriage is not invalidated by this condition unless it has been included in the agreement and explicitly expressed in the very act of celebration. With different opinions on different matters, it is sufficient for us to inquire into the doctrine followed and followed by this Holy Congregation in judging similar cases. Therefore, according to the opinion of this Holy Congregation, in order to determine the nullity of a marriage due to a condition contrary to the good of the sacrament, it is not absolutely necessary that such a condition has been included in the agreement and explicitly expressed in the very act of celebrating the marriage; but it is sufficient that it can be deduced with moral certainty, from serious circumstances, and demonstrated with a valid argument. And indeed, in the year 1875, in Paris, in the Church of Saint Augustine, Augustus Dugué and Magdalena d'Auvilliers were married; Magdalena, in truth, intended to enter into marriage, while Augustus intended to obtain the large sum promised to him by his mother, and with that intention, to bind himself permanently to the woman Mary Balot in the United States. Upon learning of this, Magdalena d'Auvilliers brought a case for nullity before the Parisian court, which declared the marriage to have been invalid, null, and void.

[*Latin ed. p. 713*]

PARIS. 713. Having interposed a petition before the Sacred Congregation of the Holy Mother Church, the Defender of the Cause of Magdalena presented the following arguments: 1. He cited Gonzales in book IV, decrees, volume 5, chapter 7, paragraphs 3 and 9, and Sánchez, *De Matrimonio*, I, 2, dispute 29, paragraph 11, who, along with Saint Thomas,

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Saint Bonaventure, Ledesma, and others, teach that if one of the contracting parties had a mind and heart retained against the good of the sacrament, that is to say, if he intended not to enter into marriage except for a time, then there would not be a true marriage. 2. He noted, along with the same Sánchez in book 2, distinction 42, paragraph 4, that the proof of the nullity of a marriage, when the matter in question concerns something hidden in the heart of a man, must be drawn from the circumstances, and that it is sufficient if it is drawn from circumstances that give moral certainty, that is, circumstances which, given the circumstances present, can make a prudent man certain. 3. Finally, he cited from the Rota, before Motines, decision 978, §, stating that these circumstances and these facts must not be considered individually, but rather together, according to the most common rule: that individual things which are not helpful, when united, are beneficial. Having thus presented and established these points, the Defender of the Cause of Magdalena sought to demonstrate, from the preceding events, from the accompanying circumstances, and from the subsequent events, that August, when he contracted marriage with Magdalena, had the intention of marrying her only for a time, that is, until he obtained the sum promised to him by his mother, and that, if necessary, Magdalena could be removed from the picture, even by the use of poison, so that he could permanently marry Maria in the United States. With all of these things, August's words, actions, and writings demonstrating this, the question arose: Whether the sentence of the archiepiscopal court of Paris should be confirmed or rejected in this case. The Sacred Congregation, after deliberation, on March 7, 1885, decided to respond: The sentence of the court of Paris should be confirmed (1). Therefore, we have certainty regarding the principle of law, that is, it is absolutely necessary that a condition contrary to the good of the sacrament not be introduced into the marriage contract.

(1) This question was referred to in Volume XVIII, 14.

[*Latin ed. p. 714*]

714. PARISIEN. It must be explicitly expressed in order to induce the nullity of the marriage, and therefore it suffices that the same condition, even if retained in the heart, be deduced from the circumstances; in our case, nothing remains but to diligently inquire whether the Lord Charles Normand, when he contracted marriage with the Lady Maria Carolina Legrand, truly had the intention, retained in his heart, of binding himself for a time, that is, of entering into a dissoluble marriage. But indeed, such was the intention of the Lord Normand, as is demonstrated by the antecedents, concomitants, and subsequent events. And indeed, if we speak in turn of the antecedents, it will immediately appear that Charles Normand was a man who, although baptized, did not acknowledge God as distinct from nature, nor did he admit the sanctity of oaths, nor did he observe the Christian duties, as befits a Catholic. Rather, he held and professed principles that were

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not only contrary to the Catholic faith, but were entirely opposed to any religion whatsoever. Thus, for example, he rejected all moral obligation; he called those who prefer virtue to convenience weaklings; and he held that all duties should be scorned when they cause inconvenience to men. If we wish to speak more precisely of his persuasions concerning marriage, we must consider what he himself testified before the ecclesiastical tribunal, what he revealed to his friends, and what he wrote to his professor. When questioned by the ecclesiastical judge, he responded that he was convinced that no marriage could be inherently indissoluble, indeed that no one could bind a man and a woman perpetually: therefore, he held and maintains that marital union is essentially revocable. From this, speaking to the Lord Gautereau and the Lady Jumel, he openly declared that he considered religious marriage to be worthless, and regarded it as a mere farce, or as a show of devotion on the part of women, or even as trivialities pleasing to women. From this, he concluded that marital life between one man and the same woman could not exist, except by exception.

[*Latin ed. p. 715*]

PARISIAN. 71 5. He, indeed, opened his mind in a letter to his former professor, Master Noel, who severely rebuked him for his manner of acting towards his wife. "Your doctrine, on this matter, I do not embrace," the erring disciple declared. "I hold, and I am persuaded, that the union of a man with a woman is, by its very nature, essentially indissoluble." Indeed, I consider it foolish to remain in error, when one knows that he is mistaken. Therefore, how can we judge that one who holds such views, with regard to the matter at hand, had the intention, in the very act of celebrating the marriage, of truly binding himself perpetually, and of entering into a marriage that is truly and essentially indissoluble? I know, indeed, that in similar cases, the matter must be examined not theoretically, but in practice. It is possible that our Charles may have held a false doctrine in his mind, and yet, in practice, have acted truly, intending, when entering into the marriage, to bind himself truly by a perpetual, sacramental, and altogether indissoluble bond. But what if I prove that he lacked this intention entirely? Indeed, that Charles Normand did not have such an intention before the marriage was contracted, and when he was about to enter into marriage, is made clear by his own words. Leaving aside other matters, I shall present the words that Charles himself uttered before the ecclesiastical judge, when he said: "I have openly professed my belief in the dissolubility of marriage, before the marriage, and I have concealed it from no one." And indeed; for immediately after the betrothal, while dining with his bride, he openly declared that he would not enter into marriage, unless he knew that the law of divorce was present. And he confirmed this, when speaking of his marriage that he was about to contract with Duo Legorsu, he said that he knew that the marriage was not definitively binding, and that he would

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not consent to the marriage, except on the condition that he would have the freedom to leave, whenever life was no longer pleasant. Therefore, Mrs. Gautereau, as a witness by hearsay, was able to testify that she had heard Charles say that he would never have entered into marriage, unless there was the hope and possibility of divorce.

[*Latin ed. p. 716*]

716. PARISIEN. It does not escape me, Charles, and others, that you, Charles, uttered such things jestingly and facetiously; nevertheless, you spoke, and you spoke in such a way that you might, at times, have said them seriously; you thought that I spoke jestingly, but I did not speak jestingly. Hence, the uncertainties, the hesitations, the wavering mind, either in preparing those things which were necessary for the marriage, or in conducting the marital home, or even in addressing his own bride, as some witnesses testify; and some of these add that they were sometimes uncertain whether it was fitting for them to be present at the celebration of this marriage. But, therefore, let us see how these things, taken as evidence of what preceded the true and ecclesiastical celebration of the marriage, may further confirm [the case]; let us see what happened in the very act of the civil contract, in which, according to the opinion of Monsieur Normand, the entire value of the marriage consists. I submit these testimonies of witnesses, from which it appears that, in the act of the civil contract, Charles displayed a mind that was uncertain, hesitant, and wavering. I will remain silent about Charles' manner of acting towards his bride, whom he treated as if she were a stranger, so that he did not even think of offering her his arm. I will say nothing about Charles' sudden disappearance, under the pretext that he needed to cool off. It is sufficient to consider the words that Charles himself uttered as he ascended the stairs of the city hall. For first, he said to Monsieur Legorsu that he could still withdraw and retract from the contract. And after other things, he added that he would never have come to this point, unless he hoped to find a way to separate himself from the woman. Therefore, questioned a little later by Monsieur Gautereau, he said: "Do you think that what I have just done should be considered of no importance?" Moreover, he added, "I would not have been so foolish as to enter into marriage, if the law of divorce did not exist at all." And these things that were asserted with words were confirmed by actions. For from that very day, he began to insult and despise the woman, so that he did not even want to embrace her who was weeping, claiming that he had much greater matters to attend to than to embrace a woman. With these things happening, the day arrived when the marriage...

[*Latin ed. p. 717*]

PARIS. The year 717 was a time of celebration for the Church. And indeed, Charles and Carolina, standing before the parish priest and

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witnesses, were about to enter into the marriage bond. And Carolina, as befitted a Christian girl, conducted herself seriously and piously. But Charles attended the sacred ceremony in such a way that he demonstrated that he regarded it as a mere comedy, as a display of feminine vanity, and as something utterly to be scorned. Deeply concerned about the judgment that his friends might pass on his entrance into the Church, he certainly should have been thinking about the dissolubility of marriage; for when questioned about the matter by the parish priest, he was forced to repeat the question, if I am not mistaken, in order to better understand whether there was anything in the question itself that might indicate the perpetuity of marriage. And after understanding the question well, he gave such an answer that the parish priest was forced to demand a new answer. After the ceremony, and while dining with friends and relatives, he addressed the bride in such a way that he caused her to weep and to consider leaving. But in the evening, during the continuation of the dinner, while speaking of many obscene things, he did not even consider it necessary to look at the bride. And finally, when he took his leave, he said to the woman, "Know that I have entered into marriage with you, but with the firm intention of returning you to your parents as soon as possible." From this, all the witnesses unanimously testify that Charles Normand entered into marriage with Carolina only for a time, that is, without intending to bind himself, but retaining the faculty of returning Carolina to her parents whenever it seemed necessary or convenient, in all respects according to what Charles himself testified before the ecclesiastical tribunal. And this is indeed most clearly confirmed by the subsequent events. For 1. even during the duration of the marriage, he began to dislike his wife. Therefore, he often spoke to his wife, saying that their life together and their marital union could not last. Hence, he often thought of fleeing.

[*Latin ed. p. 718*]

718. The Parisian [man] began, but restrained himself solely because he had a duty, to return the woman to her parents. And all of this occurred during the first ten days of the marriage. After these days had passed, Charles immediately carried out what he had planned, unexpectedly leaving the woman at her parents' house. I know that the conjugal home was, a few days later, renewed; but by what means, and in what manner, this was obtained from the woman's parents, the court records recount, as they present arguments that are, in fact, called "evidence." Nevertheless, less than a month had elapsed since the man who had sought to drive the woman out of his own home, himself fled from the marital home, never intending to return to the woman. In summary, from these facts, which are most clearly evident, it is clear that: 1. Charles Normand always remained in his conviction regarding the dissolubility of marriage; 2. he entered into the marriage only with the intention of contracting it temporarily, and of

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dissolving the marriage whenever it seemed opportune to him; 3. he truly behaved in this manner with Carolina Legrand, both before and after the marriage contract, so that he might consider her either as a woman to be kept, or to be returned to her parents, according to what would satisfy his desires. Therefore, I say that Charles Normand contracted the marriage solely in order to be able to live a life within the domestic sphere with a concubine, with whom he would remain as long as she properly managed the household affairs, and was able to satisfy his lascivious passions. And indeed, that Charles sought not a bond of souls, but solely a life of purity and domesticity within the marriage, he confessed to Mr. Legors, who therefore brought the matter before the ecclesiastical tribunal. And that he sought a woman for this purpose, one who could satisfy his passions, the following, if I am not mistaken, most clearly demonstrate. And 1. it is certain that Charles Normand immediately after the marriage warned the woman that the marital relationship should be managed by her in such a way as to avoid having children!, and that with words that would utterly disgrace an honorable man. 2. It is also certain that, while...

[*Latin ed. p. 719*]

PARIS. In one instance, Charles Normand explicitly stated that there was nothing to reproach in his wife; on the other hand, he stated that she pleased him more or less, either because he found her physically too frail and morally too serious, when he would have preferred her to be more worldly: and thus it happened that he only knew her once, as can be deduced from the records. Furthermore, it is certain that the woman, whom Charles frequented before marriage, also frequented him after. Therefore, it is permissible to conclude that 1. Charles did not enter into marriage except to satisfy his lust; 2. that the attainment of this end was intended by Charles as a condition without which his marriage contract was impossible, so that in the very act of celebrating the marriage, he had the law of "divorce" as its foundation, and he would use it, whenever he could not achieve this end; 3. and finally, that Carolina was not suitable for achieving this end, neither physically nor morally, and therefore was dismissed. From all of these things, the Theologian deduced that the judgment of the Parisian court was to be confirmed. THE OPINION OF A CANONIST. The episcopal court of Paris did not declare this marriage null and void for the following reasons: 1. because the man certainly gave his consent, not to an indissoluble bond, but to a dissoluble one, as is evident from his own declarations before the tribunal, and from the letters written to Mr. Vael, at a time when he was not suspected. 2. From the testimonies, it is known that the man affirmed, not once, that he would not enter into any marriage whatsoever, unless the law of "civil divorce" was in force. 3. It is known that the man remained steadfast in this regard, both before the civil magistrate and before the parish priest, stating that, according to him, marriage before the priest is a vain

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ceremony, while civil marriage alone is true, although dissoluble. 4. Perfect harmony between the words and actions of the man, both before and after the celebration of the marriage, together with the circumstances preceding, accompanying, and following it, all of which seem to indicate the intention of entering into a marriage that was only intended to be dissoluble. The consultant said that he had read the proceedings, but not immediately to the end.

[*Latin ed. p. 720*]

720 PARIS. A certain conclusion presents itself. For, on the one hand, the process is considered properly completed, with the judgment of the judges, whose integrity and diligence cannot be doubted; while, on the other hand, a considerable difficulty arises for me, in that a rather significant part of the testimony consists of declarations made by Charles Normand, who represents the "plaintiff" in the case, together with the depositions of relatives, acquaintances, and friends of the plaintiff, all of whom deserve to be believed due to their good reputation, but who, for the most part, offer nothing but what they "heard" from Carolina herself. Indeed, in law, "a witness who is not under oath does not prove," and the exceptions allowed by law do not apply in this case; and while the "hearsay" evidence is indeed confirmed by the words of others, it does not constitute any new evidence: moreover, the testimony of both the plaintiff and her friends seems to be weakened by the "advantage" that is apparent to the plaintiff, and by the natural and certainly just sympathy of her relatives. Furthermore, although the process may be perfect in form, the historical part of it requires further elaboration. It is scarcely explained, especially if one accepts the conclusion of the plaintiff's advocate, which has been approved by the judge, how and why both the parents and Carolina were considering marriage with a forty-year-old man, of perverse character, given to vices, who did not conceal his own wickedness in any way. Nor is it sufficiently understood why Charles was so hesitant and indecisive in the matter of the marriage, so that no serious suspicion was entertained by either the civil authorities, or the parish priest, or at least by the minds of Carolina's parents and relatives. Her age, perhaps, already past 25 years, provides a motive, but nothing else appears from the records that would absolve all parties from a very serious and grave imprudence, in the hypothesis that the plaintiff's claim can be sustained, as it is sustained by the court in Mdina. - But whatever may be the case, the entire matter deserves discussion, and in order that it may proceed more clearly, it may be permissible to briefly recount the history of this abnormal marriage. The main part was played in promoting this marriage by Mr. Grautereau and his wife, who were the elder sister.

[*Latin ed. p. 721*]

PARIS. In the year 721, there was an actress. Charles Normand confessed

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that he had conceived a desire for this marriage because of the domestic happiness he foresaw with Gautereau, with whom he had been familiar for some time. In December of 1886, Charles, then a professor of history at the lycée called Vauves, began to visit the Legrand family, seeking the hand of Caroline Legrand, the sister, as has already been mentioned, of Dr. Gautereau. The negotiations, as is customary, proceeded with varying results. Charles was in favor of the marriage; Caroline, however, being of a temperament that was not easily satisfied, halted all negotiations in February; but later, overcome by the persuasions of Gautereau and a certain beautiful letter from Charles, she consented to the marriage around the beginning of March. The marriage between Charles and Caroline was indeed celebrated on April 12th in Neuilly, before the bride's own parish priest. But it seemed to have begun under an ill omen: from the very first day, Charles treated his wife as if she were a stranger; remembering, more than anything else, the loss of his freedom, he declared a common life impossible. Barely ten days after the marriage, he abandoned his wife, leaving her in poor health, and deserted the marital home; but yielding to the reproaches and even threats of the wife's parents, he resumed the conjugal life. However, this new attempt proved to be of little benefit, for on June 9th, that is, after only one month, he again deserted his wife, and would not return. Caroline, reflecting on the many harsh words spoken by him before and after this unhappy marriage, suspected that her marriage had been invalid from the beginning due to a lack of consent on the part of the husband, and she appealed to the Parisian ecclesiastical court, requesting that it be declared invalid. And not without reason. For, if one considers only her unhappy situation, the best reason is not lacking; but, viewed in light of the strictness of justice and the sanctity of the Sacrament, it is somewhat weaker. In order that the investigation may proceed properly, it is necessary, as a preliminary step, to present those things which serve as the norm and rule in this controversy, namely those things which are certain and admitted by all concerning the matrimonial consent, especially concerning the so-called "conditional consent," because this last is the subject of the present Act.

[*Latin ed. p. 722*]

722 PARISIEN. Now, in the present case, the statement must be understood. Indeed, of all those conditions that can affect consent in marriages, only those that are contrary to the essence of marriage or its "goods" invalidate it. This is certain from the end of the chapter on condition, where the Holy Father decreed: "If conditions are inserted that are contrary to the essence of marriage," the matrimonial contract, however favorable, lacks effect. Regarding this text, the Glossary notes that three conditions are assigned that render marriage invalid, because they are contrary to its "goods." The first condition is: "If you avoid the generation

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of offspring," which is contrary to the "good" of procreation. The second is: "Until I find someone richer, etc.," which is contrary to the "good" of the Sacrament. The third is: "If, for the sake of gain, you are willing to commit adultery," which is contrary to the "good" of faith. Without a doubt, other conditions as well, although not expressly mentioned here, invalidate marriage whenever they are contrary to its essence, just as these do. Therefore, it is certain that if someone agreed to a marriage that was only valid for a limited time or temporarily, such a condition would be contrary to the essence of marriage, and there would be no marriage. Such a condition can be conceived in the following ways: 1. With one of the parties having a different intention, in which case the marriage would be invalid in foro interno, but not in foro externo, due to the total lack of proof. 2. In a pact made between the two parties: and then the marriage would be invalid in both foro interno and foro externo. 3. Finally, if it is so clearly manifested by one party that the other can understand that the consent is conditional. Regarding this case, de Angelis teaches, citing Fagnanus with common opinion, that "marriage is valid, for indeed, he says, if a condition has been added by only one party, and the other party is dissenting or at least silent, the marriage is valid, because it is considered that the party who added the condition has withdrawn it, given the dissent or silence of the other party." (Vol. III, part I, p. 149) – which I believe should be held against the one who imposes the condition, and in favor of the innocent party. If the appeal, as in our case, is made by the innocent party, there is, I believe, room for a more liberal interpretation of the law, so that if it can be proven that the condition was manifested in such a way that, at the time of the contract, the other party was aware of its existence.

[*Latin ed. p. 723*]

PARISIAN. It cannot be denied that, in certain cases, a marriage can be declared null, even if there has been no explicit declaration to the contrary. However, it must never be forgotten how much weight is given to the "pact" in the present matter, a term always used in the responses of the Sacred Congregation of the Council. Thus, in the response to the question of the Bishop of Bosnia: "Is a marriage validly contracted between a Catholic and a heretic, with the intention of dissolving the marriage?" The response states: "If such a condition has been included in the agreement, or if the marriage has been contracted with this condition, then the marriage is null; otherwise, it is valid." As is clear, the response does not refer to the condition itself, but to its manifestation, or the "pact." Similarly, in other responses from March 1868 and December 1872. "Marriages entered into with a mere error on the part of one of the parties, which error could lead to the bond of the marriage being dissolved in the case of adultery, or for other reasons, are valid. However, if they were entered into under this explicit condition, they must be considered invalid." It is not irrele-

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vant to note that, in the style of the Sacred Congregation, an expressed condition is considered a "pact," as can be rightly inferred from this latest response. The foundation of this doctrine is found in Benedict XIV, *De Synodo*, L. 23, c. 22: "If that explicit condition regarding the dissolution of the marriage in the case of adultery has not been included, even if the parties were mistaken in this regard, so that the bond could be dissolved, nevertheless there is reason to presume that, while contracting, they intended to enter into a marriage, as instituted by Christ; that is, the general will to enter into a marriage, according to Christ's institution, prevails, and this particular error absorbs that will in some way, so that the marriage contracted in this way remains valid and firm. But when the parties have expressly included in the very contract of marriage a condition regarding the dissolution of the bond in the case of adultery, it cannot be said that this particular error remains absorbed by the general will... but rather, the general will is extinguished and suffocated by the particular error, which manifestly prevails and dominates: and from this arises the nullity of the marriage, in which a condition contrary to its very substance was included in the act of contracting."

[*Latin ed. p. 724*]

724 PARIS. Having stated the premises, we can proceed to the question, which is entirely a matter of fact, provided that all parties, namely the Parisian court, the advocate for the woman, and the Defender of the Bond himself, agree. The advocate for Carolina, starting from the principle that metaphysical certainty is not required in cases of this kind, and that moral certainty is sufficient, based on the reasons and circumstances that move and persuade a prudent judgment in a serious matter, exerts all his efforts to prove that Carolus never had the intention of entering into a marriage except a valid marriage, because he considers all marriages to be valid; moreover, he argues that this wicked intention was expressly manifested through the words and actions of Carolus. I confess that consent to a valid marriage alone is indeed defective and insufficient; but not in the case where someone falsely believes it to be valid. Identical things are not "errors" concerning the substance, nor are they "contrary" to the substance. For example, young women are sometimes horrified by a marriage, the nature of which they completely ignore, and they truly protest that they never entered into it if they had even suspected such a thing. Nevertheless, the marriages are valid, which would have been entirely null if the condition of "not rendering" had been expressly added to them. I also admit that metaphysical certainty is not required in this matter, and that moral certainty is sufficient. However, it must be observed that arguments that are valid for the internal forum, such as a "confession" in our case, do not, by themselves, suffice to destroy the presumption in favor of the marriage, which is always present when it is established that it was canon-

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ically celebrated, according to the words: "For it is most unjust, according to legitimate laws, that what anyone has protested with his enough voice should, in the same case, be invalidated by testimony." - In Chapter 10 of *De Probat.* However, I am compelled to disagree with the conclusion of the advocate for the woman regarding the present marriage, and with the judgment of the Parisian court, for reasons which I will humbly submit to the wise judgment of the Most Excellent [Authorities]. In order that this marriage may be declared null and void, it must be shown that...

[*Latin ed. p. 725*]

PARISIAN. 725. Morally speaking, it is not certain that Charles did not have the intention of entering into a true marriage, as instituted by Christ and understood by all. However, this is not certain, nor is it morally certain. Therefore. The truth, which is that the lesser is greater, will become clear if: 1. It is uncertain whether Charles was mistaken regarding the nature of the matrimonial bond; 2. If, even with this mistake, it is still uncertain whether the consent itself, conditioned by the mistake, was therefore vitiated. Indeed, with regard to the first point, it is impossible to read the process documents without immediately perceiving a great discrepancy between the theories proclaimed by Charles in his unsworn, but juridical, confession, and the opinions of the same, as gathered from the testimony of witnesses. When speaking in the ecclesiastical court, Charles stated that marriage is a mere temporary union of a man and a woman, at the will of both, terminable by either; an indissoluble union is an absurd thing, scarcely conceivable; but Charles, as reported by the witnesses, considered marriage to be a difficult thing, by which a man is bound in chains and fetters, losing his freedom; by entering into it, one "crosses the Rubicon." And it should be noted that all of these things, or most of them, were spoken either before, or during, the celebration of his marriage, while the former were not mentioned until after the marriage, when the conjugal domicile was interrupted, and the process for dissolution was either instituted or about to be instituted. Let the learned judge consider what this discrepancy implies. Certainly, Charles is a singular man, and our knowledge of this case will remain obscure unless we form a distinct idea of the psychological and religious nature that transcends ancient paths, and which presents itself as a new specimen before our eyes. Furthermore, the chronological order of the statements and actions must be carefully followed, for when these are combined, they constitute a powerful testimony against the marriage, which is remarkably diminished when studied separately and in chronological order. - Beginning, therefore, with the person. - Charles Normand, an outstanding professor of history at the Lycée, a man of 40 years, can be considered a genuine product of irreligious and materialistic

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France, a fine product, indeed, as he himself describes.

[*Latin ed. p. 726*]

726. THE PARISIANS. In their confessions – in their letters, words, and actions – nothing else appears than that they are true "pigs of the Epicurean flock." With ease and inevitability, philosophical and spiritual thought, even that of the earlier part of this century, has descended into pure materialism, and the miserable generation of men nurtured and formed by these principles, the more they have strayed from every correct notion concerning God, the more readily they have surrendered themselves to all vices, so that it can be said of the most refined among them, that there is a marvelous connection in their lives uniting the theory of the "unknowable" with the practice of the "unnameable." Charles is a type of this, and the difference – a true species! "For these men, whom true virtue pleases, are truly weaklings." He was accustomed to flatter Amasia, and with "out of the abundance of the heart the mouth speaketh," he offended the ears at the very wedding feast of his wife and his guests, constantly speaking of the author of *Gola*, among the obscene writers of France, the most obscene. He consummated the marriage on the same day, and shortly afterward, he sought out Amasia again; eight days after abandoning his wife, and the only reason given by him was that "she was too fat." Thus, Charles depicts himself! There is no doubt that "a dissoluble marriage would please him most, nay, love," perhaps as they say, "free." And he confesses, with difficulty, that he entered into this marriage. But does not this reluctance demonstrate that he does not rightly understand the nature of the bond? If wives can be changed, as he declares, not in those very words; but as horses are changed; what is the point of so much difficulty in contracting? What is the point of the hesitations about which he speaks throughout his depositions? Charles could have dreamed of a civil society where marriages would be established according to the model of the system of G. Sand, or the American "elective affinity of the Apostles," but he was not in love, and it could not escape him that such a society does not exist outside of dreams, and in France, as elsewhere, he certainly knows that the matrimonial contract is a contract "of its own kind," perpetual, and inherently indissoluble, even under the unjust civil law of divorce, which, indeed, under certain conditions, affects the factual indissolubility, but does not dare to touch the indissolubility de jure.

[*Latin ed. p. 727*]

PARISIAN. 727 It is, at the very least, uncertain that Charles erred concerning the nature of the bond, and it is probable that, when he contracted it, he gave his consent to marriage, as commonly understood, that is, as instituted by Christ the Lord. This conclusion becomes manifest from an analysis of those things which preceded the marriage, which are recounted

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in the documents, and which, therefore, should be carefully considered in the order in which they occurred. Indeed, all the difficulty, and the apparent force of the argument for the alleged nullity, seem to me to arise from a disregard of the order of time. First, Charles, speaking with Mr. Gautereau about having children, said that the time had come to seriously consider this matter. It is true that he spoke later in a completely different sense, but this happened after the marriage, when he wished to abandon his wife. Attracted by the happiness with which the Gautereau couple seemed to enjoy, he conceived a desire to take Caroline, Mr. Gautereau's sister, as his wife. Therefore, he asked his friend, Mr. Legorin, to initiate negotiations, which he did first with the Gautereau family, and then with Caroline herself. Having begun the matter in this way, he pursued it from the month of November until the following April. Concerning all of this, the witnesses are unanimous. Caroline says, "He did nothing from him that could be believed to indicate that he did not, in truth, intend to contract marriage." The same is testified by Mr. Gautereau. Indeed, when, in the month of February, Caroline, being somewhat dissatisfied with the character and disposition of the bridegroom, wished to break off all negotiations for the marriage, and truly refused him, Charles was extremely distressed and lamented. We hear Mr. Gautereau say, "When my sister hesitated, Charles was greatly distressed. He often repeated that this marriage was very dear to him; and when, finally, Caroline agreed again, he rejoiced, while, on the contrary, he said that he had felt great pain because of her hesitation." It is true that he sometimes spoke about the marriage with a certain levity: but he himself subsequently protested that the things he had said about the law of divorce had been uttered in jest, and ironically, and were received in a joking manner by Caroline and by all others. Thus, the negotiations for this marriage progressed, not unlike those in the sixteenth century.

[*Latin ed. p. 728*]

728. PARISIEN. To others, for five months and more, until the day when the "legal contract" was concluded, that is, April 4, 1887. From that day onward, until April 12, when the marriage was celebrated before the Church, the situation underwent a significant change. Charles displayed little affection for his bride, expressed fears, and lamented the loss of freedom that he would have to endure. Indeed, the principal reasons put forward in favor of nullity in this case are confined within the limits of these eight days. On the day of the "civil ceremony," Charles appeared so preoccupied that he seemed burdened by the weight placed upon his shoulders; he appeared sad and his expression was mournful, exclaiming, "I greatly desired this marriage, and now I am unhappy! I seem to be bound by chains and fetters." "I should not have entered into this marriage." After the civil ceremony, Mr. Gautereau said, "If there were no law of divorce, I would not have entered into it." Gautereau responded jokingly, "There is still time; everything can

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be undone before the religious ceremony." To which Charles replied, "I am weak! And, moreover, I am hungry!!" He repeated similar sentiments before the marriage and afterward during the journey with his wife. Truly, setting aside all legal subtleties, what judgment would a prudent and experienced man form regarding this entire story? Certainly, that Charles initially intended to enter into the marriage with Carolina seriously, but that, over time, he either ceased to love her, or rather, abandoned the very idea of entering into marriage; which is easily conceivable, given that we are dealing with a forty-year-old bachelor, whose pleasure was found in a selfish and wandering Venus, who frankly admits that he is soon afflicted with boredom by the sight of any woman after a few days. Without a doubt, if he had lacked resolve, he would have broken off the entire arrangement. But what a difficulty! The negotiations had already existed for a considerable time, the republic was at stake, and Carolina's parents were not of the type of men who would bear such an insult with equanimity. Therefore, Charles remained silent and, under the influence of fear or human respect, entered into the marriage. Moreover, this is admitted by him himself. Mr. Jumel testifies: "He often said that he entered into this marriage only under duress." But fear, which is not...

[*Latin ed. p. 729*]

PARISIAN. 729. An external impediment, not unjustly imposed, which removes the impediment, does not exist, and therefore the marriage of Charles is to be considered valid. But where in this entire history is the foundation found for the contention of the actress, regarding an error concerning the bond, or an intention of contracting a marriage that is dissoluble? And yet, this is the case concerning the marriage. The other matters reported in the proceedings are, for the most part, impressions and subjective opinions of witnesses, with circumstances, which do not alter what has been explained above. In the hypothesis of the actress, everything that is reported concerning Charles' hesitation and fear before the marriage, entirely lacks substance, and all of these things, as is evident from the time, were said and done without suspicion. The only thing that can be said is that Charles knows, and perhaps approves, the law of "civil divorce"; it is also possible that he himself, given a reason, might invoke this law to separate himself from his wife, with the care that those who truly contract marriage now have. Indeed, I would believe that this is an implicit declaration of all those in regions where that unfortunate law prevails, so that I would not pronounce the marriages of Protestants in England, for example, or in North America, as invalid. The judgment rests with the Most Reverend [authorities], and so I will leave the matter, with this observation that there is insufficient proof of such an intention in this case. The advocate for Carolina argues, from the declarations of the witnesses, that a lack of consent can be inferred from "circumstances"; which I readily admit. Then,

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he proceeds to show, from the circumstances of this marriage – from the words of Charles, indeed – and from his manner of acting, and from the opinions of some witnesses, that a lack of consent truly existed. As far as Charles is concerned, the advocate assumes as a principle that a confession made before an ecclesiastical judge, in which he affirms that he does not admit any indissoluble bond in marriage, and with this confession, he interprets everything that preceded it. But this line of reasoning is by no means pleasing; for the confession is not confirmed by an oath; and even if it were repeated, it would be of little value as evidence. – As the advocate for Carolina uses it, it would be in the wrong order to explore the testimonies of "times without suspicion," alleging "circumstances."

[*Latin ed. p. 730*]

730. The Parisian [author] suspects [Charles] and seeks to eliminate the very serious weight of the testimony that arises from the progress and "evolution" of the ideas of Charles, concerning the nature of marriage, which the reading of the process will reveal. If Charles had spoken, even as of the month of February, as he states in his confession, there would be no doubt that the marriage had not been celebrated, and if it had been celebrated, it would have been invalid. - Charles boldly asserts in his confession that he never concealed his opinion, which he claims is his opinion on dissoluble marriages. When asked about the people to whom he had expressed these sentiments, before the marriage, he cannot give names! ! - He asserts that the question of the indissolubility of the bond has been debated in the Church. But who will believe that a Professor of History suffers from such ignorance? - Has he never heard of the conflict of Innocent III with the King of France, or of another Pope with Henry VIII of England, or of Pius VII with Napoleon? - Has the course of even profane history never brought to his knowledge the doctrine of the Church on this matter, which is intimately connected with its very nature and with civil matters? But these things are so strange, so extraordinary, "let the Jew Apella believe it, not I." Saving the judgment of E. E., I believe that the confession of Charles should be entirely rejected, not only because of the legal defects, namely that it was not sworn and was made "at a suspicious time" and to his own advantage, but also because of its inherent improbability, and thus the main argument on which the plaintiff's petition is based falls; whereas, on the contrary, from the account of words and actions in chronological order, it appears that it is quite uncertain whether Charles was mistaken about the matrimonial bond, and even more uncertain that he opposed a vitiating condition to the consent given by himself, in the celebration of his marriage. But from the instructions of S. O. which follow, we have regarding matrimonial causes: "The judge must know that marriage is, by its very nature, a solemn and public act, which should always be considered valid, unless evident reasons demonstrate its nullity... a judgment against

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a marriage should never be pronounced unless the totality of these reasons excludes all reasonable doubt of the existence of an impediment." - In.

[*Latin ed. p. 731*]

PARIS. In this case, the reasons are not evident, indeed they are lacking with regard to the essential elements, namely the expressed condition or agreement, and the totality of circumstances and facts, which certainly would not lack force if the question were merely about a separation *de facto*; it is very far from the probative force which would eliminate all reasonable doubt regarding the existence of an impediment. I did not deem it necessary to prolong the examination of what is said by the witnesses in the case. These can be read in the proceedings, from which I have extracted only what is of some importance. It is evident in all things the natural compassion felt towards Carolina, who, without her own fault, has suffered such a miserable fate, a "misfortune to which there is no remedy," to use the words of Charles himself! - If marriages contracted with wicked men can be dissolved, if insults and injuries inflicted upon miserable women after marriage are sufficient, then, without doubt, there are reasons in this case. But marriage is a sacrament signifying the perpetual union of Christ the Lord with the Church, and it can only be validly contracted and consummated, and dissolved by death. - I, too, pity the fate of Carolina, but she is free, or can be free, from the companionship of an unworthy man to whom she was joined, not without some imprudence, and if she cannot hope for new marriages while he lives; her condition is not worse than that of wives whose husbands are perpetually confined to prison or are kept in asylums due to incurable madness. Therefore, since nullity in this case is not proven to the exclusion of reasonable doubt, I believe that the judgment of the Parisian court should be reformed, and it should be declared: "There is no proof of nullity in this case."

OBSERVATIONS OF THE DEFENDER OF MARRIAGE *EX OFFICIO*. Charles Normand, a renowned historian, at the age of forty, although he detested the burdens of marriage, was nevertheless amazed by the peace and happiness enjoyed by the married couple, the lawyers August and Berthe Gautereau, to whom he was very close and intimate, and he desired the same for Carolina Legrand.

[*Latin ed. p. 732*]

In the year 1888, in Paris, Charles entered into marriage with a young woman named Berthae Gautereau, who was over twenty years of age. After nearly seven months of courtship, the marriage took place on April 12th in Paris. The newlyweds, without delay, began to live together as husband and wife. However, the love between them quickly vanished. On April 20th of the same month, Charles sent Berthae back to her parents, stating that he was displeased with both Berthae and the marriage itself. "To be honest,"

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he wrote to his wife on the same day, "it is not only Berthae that I do not love; it is the marriage itself." On the same day, Charles wrote to a friend, August Noèl, stating: "The affairs of the marriage are going badly... The fault is more with me than with her, for I have nothing to reproach her for, at least in terms of character! As for the rest, I reserve my judgment... I do not know if I am made for marriage, but I am certainly not made for this bride." Through persuasion, prayers, and threats, Charles was persuaded by Berthae's parents to resume the marital relationship; however, on June 8th of the following year, the conjugal union was again dissolved. At that time, the couple, and especially Berthae and her parents, decided to break the marriage bond completely, and they ultimately annulled the marriage, thereby negating the intention against the perpetuity of the marriage bond that had been present at the time of the marriage contract. If one were to hear their words, Charles had led Berthae to believe that the marriage bond was dissolvable at his will; and therefore, he did not truly consent to the marriage; but rather, he merely pretended to consent. The matter was then presented to a Parisian judge and a Roman theological consultant, who listened attentively to the arguments, which were rightly condemned by the canon lawyer. For, it is in the confessions that the words, not only from Berthae but also from Charles, spoken during the celebration of the marriage, truly signified consent to the marriage. Listen now to the *Glossa in cap. De sponsa*, I, regarding matrimony, in the words: "Mulierem..." - there - "But suppose that someone..."

[*Latin ed. p. 733*]

PARIS. "In the year 733, it is stated that if a man says that he will do everything to obtain a marriage, and afterwards publicly declares, 'I consent to you: whether this is a marriage or not,' in such a case, the Church ought to judge that a marriage exists, because recourse must be had to the common understanding of words. For such words cannot serve their intended purpose. Furthermore, if it is proven that the man had previously protested, he may afterwards retract that intention and consent to the marriage; and this seems to be the case because of what he does publicly afterwards. And if he says that at that time he was still in the same intention, he is not believed, because the interpretation must be made against him who uses deceit."

"To determine the nullity of a marriage, says a most learned theological consultant, based on a condition contrary to the good of the sacrament, it is absolutely necessary that such a condition was brought into the agreement and explicitly expressed in the very act of celebrating the marriage; but it is sufficient that it can be deduced with moral certainty, from serious circumstances, and demonstrated as a valid argument."

"The strongest argument that Charles intended to contract a dissoluble marriage is the confession made by Charles himself before the Parisian judge. Indeed, if ecclesiastical judges give credence to such men, it is not

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only the case in this instance, but also in all marriages. Not only before the judge in the heat of the litigation, says the eminent consultant and the Parisian judge with him, but also in a letter to his former professor in Altbunzlau, written at a time when there was no suspicion, Charles showed that he did not feel correctly about the nature of marriage. He wrote: 'I must tell you... that I do not at all share your ideas about the very nature of marriage.'"

"First, I ask, by what right can the theological consultant and the Parisian judge affirm that this letter was written at a time when there was no suspicion, when it is dated without a day, without a month, and without a year? Indeed, it is certain that the letter was written at a suspicious time, because in it, Charles responds to a letter from the professor dated April 21, 1887."

[*Latin ed. p. 734*]

734. PARISIEN. Thus, Charles had returned Caroline to her parents the day before. And the master vehemently reproached the student for this fault in a letter. Subsequently, from the quoted words, "I do not at all share your ideas about the very nature of marriage," the adversaries unjustly infer that Charles considers the matrimonial bond to be not perpetual. What is Charles's opinion on this matter is clearly evident from the letter he wrote on that very day, when he separated from Caroline, to his wife. "To be honest, it is not only the person that I do not love, but marriage itself. It is, indeed, impossible for me to live bound to a woman for my entire existence." On the same day, April 20, 1887, he wrote to his aforementioned professor: "I do not know if I am made for marriage, but certainly I was not made for this woman." It is frivolous and foolish to suspect that Charles Normand, by saying that he had taken on the burdens of marriage, amplified them in the same way that he was entirely devoted to fulfilling them. Truly, no one has ever so clearly, openly, explicitly, and abundantly professed the perpetuity of marriage as Charles Normand did in the aforementioned letter to his separated wife, when he defined marriage: "To live bound to a woman for my entire existence." Has anyone ever acknowledged, with such clear words, the customs of life to which he has bound himself through marriage, as Charles Normand did when he wrote: "To live bound to a woman for my entire existence"? But Charles, "truly, he sees what is better among the followers of Epicurus, and approves of it, but follows what is worse." He readily embraces the advantages of marriage, but he has nothing older than to reject the connected burdens. For this reason alone, a man detests all bonds from his earliest years, not the ecclesiastical bond, but the civil bond, and he is relieved by the law of divorce, "words bind men, horns bind oxen." And what is worse, we live in times when Charles

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Normand has countless associates and followers. Spirit.

[*Latin ed. p. 735*]

PARIS. 73. The Saint warns, Jeremiah, chapter 3, verse 27: "It is good for a man to bear the yoke from his youth." But he who approaches marriage with a spirit far different from that of Charles Normand, "because he will bear the yoke from his youth," namely, he who seeks to avoid it, let him consider that those who, from their youth, have shaken off the yoke and have yielded to their desires, despising the law given to us by the Author of Nature, intend, when entering into marriage, to bid farewell to their wife, if they can do so with impunity, and to abandon her as soon as she becomes a burden. Men of this sort, like Normand, mock marriage, considering only the civil aspect, because they fear that they will be forced to bear the heavy burdens of military service. Charles Normand, it seems, did not ignore the internal obligations, which he learned to despise from his earliest years, when he completed his marriage, but he hoped that he could, as with all other obligations, contradict his wife whenever it pleased him, and that he could divorce her with impunity. This, and nothing else, is the meaning of Charles' actions and words, if what is reported by the jurist Gautereau, Adelia Legorju, Hilarius Legorju, Charles' sister, his father A. Jumel, the lawyer Valentin, and others is true. But if these things are sufficient to dissolve a marriage, then only those are joined in a valid marriage who, from a young age, have learned to fear God and to obey His commandments. Given these circumstances, I have no doubt that the Eminent Fathers will respond to the written request, "Whether the judgment of the archiepiscopal court should be confirmed or overturned in this case," with the most prudent answer: "Negatively to the first part, affirmatively to the second." With these premises, the following question was proposed: Whether the judgment of the court of Paris should be confirmed or overturned in this case. RESOLUTION. The Sacred Congregation, convened on January 3, 1891, after deliberation, decided to respond: The judgment should be overturned.

[*Latin ed. p. 736*]

736. PARISIEN. From which [arguments] are gathered: I. That this matrimonial question is entirely a question of fact; for, concerning the application of the law in this matter, there is unanimous agreement; namely, that marriage must be nullified if moral certainty arises that the betrothed intended to enter into a dissoluble marriage, and that this condition was expressed, either in words or otherwise, before the celebration. II. It is clear to no one that consent in a dissoluble marriage is vitiated and insufficient; because this condition is contrary to the good or essence of the sacrament, which is inherently indissoluble. III. A condition contrary to the good of marriage, placed in the mind of one of the spouses, invalidates the marriage

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only in the internal forum; in the external forum, the marriage is invalid to the extent that the aforementioned condition was brought into the agreement by both parties. IV. A condition contrary to the good of marriage, expressed by the parties, but not brought into the agreement, does not affect the marriage; for, although the parties may be deceived by error, there is room for the presumption that, when they contracted, they intended to enter into a marriage as instituted by Christ. V. For a private error, in a certain way, is absorbed by the general will to enter into marriage, according to the will of Christ; thus, the marriage remains valid and firm, even if the parties are mistaken, believing that they can enter into a dissoluble marriage, to the extent that they have not brought this will into the agreement. VI. In this matter, even if the betrothed was deceived concerning the indissolubility of marriage, yet, since it does not morally follow from the adduced evidence that he did not intend to contract a true marriage, as instituted by Christ, therefore, the marriage remains in its force; because the adduced evidence is not sufficient to destroy the presumption in favor of marriage, of whose canonical celebration there is sufficient proof.

[*Latin ed. p. 737*]

737 FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH: Privileges granted to the pious work of the Propagation of the Faith. (Version Très Saint Père, The Presidents of the central councils of the Work of the Propagation of the Faith, humbly prostrate before Your Holiness, earnestly beseech you to deign to grant, perpetually, the following favors and faculties to the priests who will serve said Work under the conditions expressed below, namely: I. Every priest who is charged in a parish or in an institution to collect alms for the Work of the Propagation of the Faith, whatever the amount of money he collects, or who shall contribute from his own resources to the treasury of the Work the equivalent of a full tenth: 1. The favor of a privileged altar three times per week; 2. The power to apply the following indulgences: to the faithful who are at the point of death, the plenary indulgence; to prayer ropes or rosaries, crosses, crucifixes, sacred images, small statues, and medals, the apostolic indulgences; to prayer ropes, the indulgences of Saint Bridget.

BLESSED FATHER, The Presidents of the central councils of the Work of the Propagation of the Faith, humbly prostrate at the feet of Your Holiness, earnestly implore that you deign to grant perpetually the following privileges and faculties to the priests devoted to this Work, in the following manner: I. To each priest who has the charge in any parish or in any institution to collect alms in favor of the Work of the Propagation of the Faith, whatever the amount of money collected from elsewhere, or who contributes from his own resources to the Work the equivalent of the value of ten members: 1. A privileged altar three times in each week; 2. The faculty of applying the following indulgences: to the faithful constituted in the article of death, the

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plenary indulgence; to fishing nets or rosaries, crosses, crucifixes, sacred images, small statues, and medals, the apostolic indulgences; to fishing nets, the indulgences of St. Bridget.

[*Latin ed. p. 738*]

738 FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, Article 3. I. The faculty of attaching indulgences of the Way of the Cross to crucifixes. II. To every priest, who is a member of a Council or Committee charged with overseeing the interests of the Work, etc. To every priest who, within the year, has contributed to the treasury of the Work a sum of money representing at least the value of a thousand subscriptions, whatever the origin of this sum may be: 1. The same privileges as the priests of the preceding category; 2. A privileged altar five times per week; 3. The privilege of blessing crosses, attaching to them the indulgences customarily granted for the exercise of the Way of the Cross; and furthermore, the power to bestow the cord and the Seraphic scapular with all the indulgences and privileges granted by the Supreme Pontiffs for this bestowal; 4. The power to bless and bestow upon the faithful the sacred scapulars of Mount Carmel, of the Immaculate Conception, and of the Passion of Our Lord Jesus Christ. In the case where the sums to be collected are, for a time, incomplete, the aforementioned Presidents implore Your Holiness to grant a postponement of the privileges to the priest who has fulfilled the requirements.

[*Latin ed. p. 739*]

39 From the Sacred Congregation for the Propagation of the Faith, the full amount of the previous year must be paid, until the close of the current fiscal year. III. Any priest who, once, from his own resources, presents a sum representing the product of one thousand subscriptions, shall have, for the duration of his life, the right to the privileges granted to priests who are members of a Council. II, He who presents the full amount of the previous year, up to the end of the current fiscal year. III. Any priest who, once, from his own funds, presents that sum of money which equals the amount of one thousand members, has the right, for the duration of his life, to the privileges granted to priests who are members of the Council. From an audience held with the Most Holy Fathers on the 15th of August, 1889. The Most Holy Lord Pope Leo, by divine Providence, Pope XIII, having requested that I, the undersigned Archbishop of Tyre, Secretary of the Sacred Congregation for the Propagation of the Faith, be granted extensions of indulgences, and having graciously granted them, and having assigned them perpetually to this pious work, except for the faculty of blessing crowns, which is granted only for a period of five years. Given in the year of Our Lord, in Rome, on the aforementioned day, from the offices of the aforementioned Sacred Congregation, Philip Torroni, Secretary. Most Reverend

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Letter of the Eminent Prefect to the Bishops, concerning the pious union of prayers among the Bishops. Most Illustrious and Reverend Lord, Since the year 1866, at the urging of the Most Eminent Cardinal Cletus Righi Loricati, Archbishop of Naples, a certain pious union has been formed among several Bishops of Europe and other regions, who, united in spirit, offer prayers, commending their predecessors, themselves, and their respective flocks to God with one voice. In order that this pious union of prayers may spread more and more among other Bishops, some of them have recently requested of the Most Holy Pope Leo XIII that he might deign to approve it and bestow upon it the Apostolic Blessing. Furthermore, his Holiness, as soon as...

[*Latin ed. p. 740*]

740 From the Sacred Congregation for the Propagation of the Faith, the aforementioned desires of the Prelates were received, and the proposals made by them were granted the Apostolic Blessing, not only enriching them with the highest praises, but also deserving of all approvals and special indulgences. Furthermore, the Most Holy Lord willed that this very Union be established by a decree of this Sacred Congregation for the Propagation of the Faith, and that its principal seat, or center, be established within the same Sacred Congregation, for the benefit of all the Bishops of the Catholic world. Since these things are so, I transmit to Your Eminence the decree of erection of the aforementioned Union of Prayers, and I also implore you to signify to me whether you wish to be enrolled among them. And in the meantime, awaiting your response, I pray to God that He may preserve you for a long time and grant you peace. Given in Rome, in the halls of the Sacred Congregation for the Propagation of the Faith, on the 7th of December, 1887. To Your Eminence, I remain, as always, your most devoted brother, JOHN CARDINAL SIMEONI, ARCHPRIEST OF TYRE, SECRETARY. Decree of Erection. In the year 1866, His Eminence, Cardinal Pius Riarius Sforza, Archbishop of Naples, in a letter addressed to the Archbishop of Baltimore, had the following to say concerning the establishment of a union of prayers among Bishops: "Among the many duties that a Bishop undertakes daily, and among the cares that he brings to the pastoral ministry, it would certainly be of great importance if all Catholic Bishops were to strive to assist one another, and to implore Almighty God together through constant prayers. Therefore, some Bishops, especially those in ecclesiastical jurisdictions, have considered it worthwhile if many Bishops, united in the spirit of Saint Dominic, would wish to perform three acts of piety: the first, for deceased Bishops; the second, for themselves; and the third, for the Bishops who are reigning with Christ in Heaven." Further-

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more, he added among other things:

[*Latin ed. p. 741*]

I. From the Sacred Congregation for the Propagation of the Faith, 741
I. Firstly, it is to be ensured that each Bishop daily offers a special prayer, remembering the Bishops recently deceased; and each year, within the Octave of All Saints, or during the week of prayer for the Church, a Mass shall be celebrated for all Catholic Bishops who are asleep in Christ.

II. In accordance with the office of piety, let these things be diligently fulfilled, so that all may be joined together in a special way in spirit with the Lord, while they dedicate themselves to daily prayer and other sacred actions. Whether they devote themselves to mental prayer, or to pious reading, or celebrate Mass, or recite the canonical hours, or recite additional prayers, or perform sacred functions, let them strive to do all things together. And in all these actions, let them especially offer prayers for the entire Catholic episcopate, for the safety of the Roman Pontiff, and for the sanctification of the flock, and for each Bishop individually. In order that this pious union may become stronger each day, let the protection and patronage of the Queen of the Apostles be invoked, and therefore, let no Bishop fail, after the canonical hours, or at another time, to recite once each day the prayer: "Remember, most holy Virgin, and invoke her three times: Virgin Immaculate, Queen of the Apostles, pray for us."

III. Thirdly, the office of piety demands that all Bishops who, having faithfully performed their pastoral duties among us, are now ever ready to intercede with God for those who have entered the Lord's vineyard through their labors, be honored with special devotion. Therefore, at the conclusion of the canonical hours, let the following commemoration be made for the Bishops whose feast day is celebrated that day, and for all the Saints who were Bishops:

I. ANT. O, good pastors, who laid down your lives for your flocks, intercede for us, and for our flock, before the Lord.

V. Bless the Lord, O priests of the Lord.

R. Bless, and exalt Him above all forever.

LET US PRAY. O God, who in Your Saints have placed both an example and a protection, grant to Your servants, the holy prelates whose memory we commemorate today, that we may follow their example and be strengthened by their protection. Through Christ our Lord.

II. ANT. All You Holy Bishops, remember us, and plead for us with the Son of God, our great High Priest.

V. Bless the Lord, all You elect.

R. Let it be said, "This is the day which the Lord has made; let us rejoice

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and be glad therein."

[*Latin ed. p. 742*]

742 FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, LET US PRAY. "O Lord, hear our prayer, and through the intercession of all the Holy Prelates, grant that we may experience your mercy in the exercise of our pastoral office, and that they may follow in their footsteps." Through Christ our Lord. Moreover, recently, certain Bishops, especially from the United States of America, have humbly presented supplications to the Most Holy Pope Leo XIII, that he would deign to more firmly establish this pious Union and enrich it with Indulgences. His Holiness, on the 19th of September, 1886, in an audience, with the reference of the undersigned Reverend Father, Archbishop of Tyre, Secretary of the Congregation for the Propagation of the Faith, having benevolently approved and confirmed this pious Union, has graciously granted the following Indulgences perpetually to all and each Bishop who writes to it: 1. A plenary indulgence for all sins, to be obtained on the first day of entering this pious Union, provided that, truly contrite, having confessed and having received the Holy Eucharist, they visit some church and there pour forth pious prayers for the concord of Christian princes, the extirpation of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church, according to the intention of the Supreme Pontiff; 2. Also a plenary indulgence, in the hour of their death, if they are contrite, having confessed and received Holy Communion, or, if they are unable to do so, at least having devoutly invoked the Holy Name of Jesus, with a contrite heart, and, if they can, with their mouth; 3. Also a plenary indulgence on the days on which the Commemoration of All the Holy Popes and the Prayer of Our Lord Jesus Christ on the Mount of Olives are celebrated, under the usual conditions, as mentioned above in n. 1; 4. Furthermore, a partial indulgence of 60 days, to be obtained once each day, provided that they are engaged in the sacred ministrations entrusted to them. Finally, His Holiness has commanded that the writings of the Bishops to this aforementioned pious Union be made and kept in this Sacred Congregation for the propagation of the Christian name, and that the aforementioned decree be observed by all. Given in Rome, from the Sacred Congregation for the Propagation of the Faith, on the 7th of December, 1886. IOANNES CARD. SIMEONI, PREFECT. DOMINICUS ARCHIEP. TYREN., SECRETARIUS.

[*Latin ed. p. 743*]

From the Sacred Congregation for the Propagation of the Faith, 743. Exorcism against Satan and fallen angels, ordered by Pope Leo XIII, M. [presumably, meaning "of blessed memory"]. In the name of the Father, and of the Son, and of the Holy Spirit. Amen. Psalm LXVII. Let God arise, and

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let his enemies be scattered: and let them that hate him flee before his face. As smoke vanisheth, so shall they perish; as wax melteth before the fire, so shall the wicked perish before God. Psalm XXXIV. Judge me, O Lord, according to my righteousness: and according to the simplicity of my heart. Let them be confounded and put to shame that seek my soul. Let them be turned backward, and let them that desire my life be disappointed. Let them become as dust before the wind: and let the angel of the Lord chase them away. Let their way be darkness, and let their backsliding be for lubricity. And let the angel of the Lord persecute them. For they have hidden the snares of their pit before my face: they have marked my soul for destruction. Let the snare take them unawares: and let them fall into the pit that they have not foreseen. My soul shall rejoice in the Lord: and it shall be glad in his salvation. Glory to the Father, and to the Son, and to the Holy Spirit: as it was in the beginning, so now, and ever, and world without end. Amen. TO SAINT MICHAEL THE ARCHANGEL. PRAYER. Most glorious Prince of the heavenly host, holy Michael Archangel, defend us in battle and in every conflict against the snares of the devil, who watches for an opportunity to destroy us. Be strong, hold firm, and never give up. Amen. Today, as the blessed Angels wage war for the Lord, as you fought against the pride of Lucifer, and cast him down from heaven, so now, with the help of God, may you cast down Satan, the author of sin, and all the wicked spirits who dare to fight against the Creator of all things.

[*Latin ed. p. 744*]

744 FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, and they did not wish it, nor was a place found for them any longer on earth. But that great dragon, that ancient serpent, who is called the devil and Satan, who deceives the whole world, was cast out; and his angels were cast out with him (Apocalypse XII). The ancient enemy, a vehement murderer, has been greatly exalted. Transformed into an angel of light, his icy breath corrupts the apostates: with the entire host of evil spirits, he widely circles the earth, so that he may blot out the name of God and of His Christ, and frustrate the souls destined for eternal glory, and slay and destroy them forever. The venom of his wickedness, like a foul and impure stream, the malevolent dragon has poured forth into the homes of men, corrupting their minds and hearts; the spirit of lies, impiety, and blasphemy; a deadly breath of lust, of all vices, and of iniquities. The enemies of the Church, the immaculate Bride of the Lamb, have filled her with bitterness, and intoxicated her with wormwood; they have sent forth their impious hands against all that is desirable to her. Where the seat of the most blessed Peter and the Chair of Truth, established for the enlightenment of the nations, is located, there they have placed the throne of their abominable impiety; so that, by striking the Shepherd, they may scatter the flock. But be present, invincible Leader, and, against

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the spiritual wickedness that assaults the people of God, may you be victorious. The holy Church venerates you as her guardian and protector; she glories in you as her defender against the earthly and infernal powers; the Lord has entrusted to you the souls of the redeemed to be placed in heavenly happiness. May the God of peace crush Satan under our feet, so that he may no longer be able to hold men captive, and to harm the Church. Offer our prayers before the Most High, that we may quickly anticipate the mercy of the Lord, and that the dragon, the ancient serpent, who is the devil and Satan, may be seized and cast into the abyss, that he may no longer deceive the nations (Apocalypse XX). Confident in your protection and patronage, by the authority of our sacred ministry, we stand firm against the diabolical infestations and deceptions, in the name of Jesus Christ, our God, and in our trust in the Lord, secure and fearless. V. Behold the Cross of the Lord, flee, you hostile powers. R. He conquered and will conquer. R. You are the root of David. R. Have mercy on us, O Lord. V. As we have hoped in you. R. O Lord, hear my prayer. R. And let my cry come to you.

[*Latin ed. p. 745*]

FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 745. The Lord be with you. And with your spirit. LET US PRAY. O God, and Father of our Lord Jesus Christ, we invoke your holy name, and we humbly beg for your mercy, that, through the intercession of the Immaculate Virgin Mary, Mother of God, of the blessed Michael the Archangel, of the blessed Joseph, husband of the same most holy Virgin, of the blessed Apostles Peter and Paul, and of all the Saints, you may deign to grant us help against Satan, and against all other unclean spirits who wander about the world, seeking to corrupt the human race and destroy souls. Through the same Christ our Lord. Amen. EXORCISM. We exorcise you, every unclean spirit, every satanic power, every assault of the infernal adversary, every legion, every congregation and sect of the devil, in the name and by the power of our Lord Jesus Christ, to be eradicated and driven away from the Church of God, from the souls created in the image of God and redeemed by the precious blood of the divine Lamb. No longer dare you, most cunning serpent, to deceive the human race, to persecute the Church of God, to shake and sift out the elect of God like wheat. God the Most High commands you, to whom you still presume to be like in your great pride; who desires that all men should be saved, and come to the knowledge of the truth (1 Timothy 1:1). God the Father commands you; God the Son commands you; God the Holy Spirit commands you. The majesty of Christ commands you, the eternal Word of God, made flesh who, for the salvation of our race, who were lost through your envy, humbled himself, becoming obedient unto death (Philippians 2:8); who has built his Church upon a firm foundation, and has decreed that the

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gates of hell shall never prevail against it, as he himself will remain with all those days until the consummation of the age (Matthew 28:20). The sacrament of the Cross commands you; the power of all the mysteries of the Christian faith commands you. The most exalted Virgin Mary, Mother of God, commands you, who, in her first instant of immaculate conception, crushed the proud head of you with her humility. The faith of the holy Apostles Peter and Paul, and of the other Apostles, commands you.

[*Latin ed. p. 746*]

746 FROM THE CONGREGATION FOR THE PROPAGATION OF THE FAITH: The blood of the martyrs, and the intercession of all the Saints. Therefore, you, accursed dragon, and every legion of demons, we adjure you by God, the living God, by the true God, by the holy God, by God who so loved the world, that He gave His only-begotten Son, that whosoever believeth in Him should not perish, but have everlasting life (John 3:16): cease to deceive human creatures, and to administer to them the poison of eternal perdition; cease to harm the Church, and to lay snares for its liberty. Depart, Satan, inventor and master of all deceit, enemy of human salvation. Give place to Christ, in whom you found nothing of your works; give place to the one, holy, catholic, and apostolic Church, which Christ Himself acquired with His own blood. Humble yourself under the mighty hand of God; tremble and flee, at the invocation of the most holy and terrible name of Jesus, whom the infernal regions tremble, to whom the powers of heaven and the principalities and dominions are subject; whom the Cherubim and Seraphim praise without ceasing, saying: Holy, Holy, Holy, Lord God of Hosts. V. Lord, hear my prayer. R. And let my cry come to you. V. The Lord be with you. R. And also with you. LET US PRAY. O God of heaven, O God of earth, O God of Angels, O God of Archangels, O God of the Patriarchs, O God of the Prophets, O God of the Apostles, O God of the Martyrs, O God of the Confessors, O God of the Virgins, O God who has power to grant life after death, and rest after labor; for there is no God besides You, the Creator of all things visible and invisible, whose reign will have no end: we humbly beseech Your majesty and glory, that You may deliver us from all the power, snares, deceptions, and wickedness of the infernal spirits, and that You may keep us safe and unharmed. Through Christ our Lord. Amen. From the snares of the devil, deliver us, O Lord. That Your Church, in Segura de Lon, may serve You in liberty; We ask you, hear us. That You may deign to humble Your enemies, the enemies of the holy Church; We ask you, hear us. (And the priest sprinkles the place with blessed water.)

[*Latin ed. p. 747*]

747 FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH. From an audience granted by the Most Holy. On May 18, 1890. The Most Holy Father, Leo XIII, by divine providence, to all

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Most Reverend Bishops, and also to Priests legitimately holding authority by virtue of their orders, who shall recite the aforementioned exorcism prayer, grants a partial indulgence of three hundred days each day. To those, however, who persevere throughout the entire month, having confessed their sins and received the most holy Eucharist, a plenary remission of all their sins is granted on the day of their choice, as well as the opportunity to apply this indulgence for the souls of the faithful in Purgatory, as they may desire. This decree is valid forever. f 6'. C. D. The ARCHBISHOP of the Congregation for the Propagation of the Faith, TYRENSIS, with due regard. SECRETARY. A DOUBT concerning the observance of the Commemoration of All the Faithful on November 3rd. Within the boundaries of the Archdiocese of Utinen, there are several churches dedicated to Saint Just Martyr, whose feast day is celebrated throughout the entire Archdiocese on the third of November, with a lesser double. If the aforementioned date falls on a Sunday, the anniversary is observed on the following second day of November; the Commemoration of All the Faithful Departed is then celebrated on the following day. Hence, the following doubt was humbly submitted by the Most Reverend Archbishop of Utinen to the Sacred Congregation of Rites for a suitable solution: Whether, in the aforementioned circumstances on the third of November, the feast of the same titular saint should be celebrated in the churches of Saint Just, or whether the Commemoration of All the Faithful Departed should be transferred to the fourth day; or, rather, should the feast of the titular saint be transferred to this fourth day, so that the Commemoration of All the Faithful Departed may be observed on the third day?

[*Latin ed. p. 748*]

From the Sacred Congregation of Rites and Sacred Matters, in response to the following communication from the Secretariat of the Sacred Congregation of Rites, and also at the earnest request of another of the Masters of the Sacred Ceremonies, after mature deliberation, it was deemed fitting to write the following answer: Affirmative to the first part; negative to the second. And thus it was written and ordered to be observed on August 22, 1890.

DECREE. Concerning the canonization of the Blessed Peter Aloysius Mary Chanel, priest of the Society of Mary, the first martyr of Oceania.

ON the question of whether a Commission should be appointed, and for what purpose, in the case in question, regarding the resumption of the aforementioned cause?

At the request of the Reverend Father Claudio Nicolet, priest of the Society of Mary, and promoter of the cause for the canonization of the aforementioned Blessed Peter Aloysius Mary Chanel, and after the Most Eminent and Reverend Cardinal Angelo Bianchi, Bishop of Praeneste, the pro-

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moter of this cause, had proposed the following question in the meetings of the Ordinary Congregation of the Sacred Rites, held at the Vatican, the following was written: Whether a Commission should be appointed for the resumption of the cause in question, and for what purpose?

The Most Eminent and Reverend Fathers presiding over the Sacred Rites, after carefully considering all matters, and after hearing the Reverend Father Augustine Caprara, Promoter of the Faith, deemed it fitting to write: Affirmative, if it should please the Most Holy. On June 1, 1891.

These matters, having been faithfully reported in writing to the Most Holy Lord Pope Leo XIII, His Holiness, considering the opinion of the Sacred Congregation to be sound, deigned to sign with his own hand the appointment of the Commission for the resumption of the cause of Blessed Peter Aloysius Mary Chanel, on the 10th day of the same month and year.

C. L.

* CARD. ALOISI - MASELLA, Prefect of the Sacred Congregation of Rites.

S. VINCENTIUS NUSSI, Secretary of the Sacred Congregation of Rites.

[*Latin ed. p. 749*]

749. EXTRACTIONES. CONGREGATIO. RESPONSUM. DE INQUISITIONE. De vi obligatoria decreti *Tametsi ex sola Consuetudine*. Monitum. Vol. XXI, 648. Quaestionem, retuli Limburgen. Dubia circa matrimonia clandestina; ex qua, deprehendi facile est principium hoc; nempe, Tridentinum decretum *Tametsi obligare*, si per longam consuetudinem observatum sit; quamvis de eius publicatione certum non fuerit. Eius modi iuris prudentiam confirmari per responsum datum a S. C. S. Officii dubio ex hibito eidem S. Congregationi; quodque sic expositum fuit: Beatissime Pater, Titius, *catholica*, postquam plurimis abhinc annis cum Bertha, item *catholica*, cuius hodie domicilium ignorat, matrimonium civile in civitate Mülhausen, huius Dioecesis, contraxerit, coram iudice divortium petit, quoad novas nuptias cum alia concubinando volare possit. Iamvero civitas Mülhausen, a principio sic dictae Reformationis ad initium usque huius saeculi, ex integro erat protestantica, decretumque Tridentinum in publico non potuerat. Initio huius saeculi, adventibus catholicis, erecta fuit in memorata civitate parochia *catholica*, accrescentepaulatim numerum catholicorum, exstantine hodie tres parochiae cum catholicis 47,000, dum haereticorum numerum 14,000 non excedant. Decretum Tridentinum, tanquam Decretum Conciliare sub nullitatis poena obligans, tempore erectionis prioris parochiae semper a catholicis observatum fuit, sed de publicatione dicti Decreti minime constat. Quare, humillime expostulo sequentium solutionem dubiorum: 1. Utrum, nonobstante regula a Benedicto XIV tradita de Sua. dioec., I. 12, c. o, n. G, clandestinum matrimonium inter catholicos in civitate Mülhausen inita, tanquam validum censeri debeat?

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2. Utrum, remanente aliquod dubio de ipsorum validitate, praedicta Titio liceat solutionem vinculi ad iudices laicos impetrare?

[*Latin ed. p. 750*]

750 FROM THE SACRED CONGREGATION: Is it permissible, and indeed, does God permit, a Catholic to enter into a new marriage before the Church with his concubine, after having previously entered into a civil marriage? Strasbourg, February 17, 1887. P. PAUL, E.P. To the Most Illustrious and Reverend Lord, By letters dated February 17th of the past month, a certain Titius, a Catholic, has presented a case. He, having entered into a civil marriage with Bertha, also a Catholic, many years ago in the city of Mülhausen in this diocese, now petitions before a judge for a divorce, so that he may enter into a new marriage with his current concubine before the Church. The following question is proposed: 1. Whether, notwithstanding the rule established by Benedict XIV in *Syn., dioec., I. 12, c. 5, n. G*, clandestine marriages entered into between Catholics in the city of Mülhausen should be considered valid? 2. Whether, if any doubt remains regarding their validity, it is permissible for the aforementioned Titius to seek a civil annulment before lay judges, and then to enter into a new marriage with his current concubine before the Church? Before any decision is made, this Sacred Congregation deemed it necessary to write to Your Eminence, so that you may explain the reasons for your doubts. And in the meantime, I pray for all that is good for you from the Lord. With the greatest respect, Rome, March 10, 1887. Most devoted in the Lord. R. CARDINAL MONACO. To the Most Eminent and Reverend Lord, Regarding the question of the validity of marriages entered into clandestinely between Catholics in the city of Mülhausen, in this diocese, Your Eminence has deigned to respond to me by letter dated the 10th of this month, requesting that I explain the reasons for my doubts. In obedience to my veneration for the Apostolic See, I must note the following: Titius, concerning whom I wrote, having left his residence in Mülhausen, chose another residence along with his concubine in the city of Colmar, where, wishing to act according to his conscience, he approached the parish priest. (Whether it is permissible for him to request a civil divorce regarding a marriage contracted only civilly, and to enter into marriage with his concubine before the Church?) The parish priest, having been referred by the priest of St. Stephen in Mülhausen, stated that the Council of Trent has been observed for a long time, but that it is not certain...

[*Latin ed. p. 751*]

FROM the Most Holy Office, 751, concerning the publication of the aforementioned Decree, indeed, it is more probable that the Decree was never promulgated, the entire matter—with two documents dated February 17th attached—was referred to the Ordinary. I know that, from Benedict XIV,

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Synodal Decrees, book 1, chapter 12, paragraph 5, it is stated that "if the publication of the aforementioned Decree has been presumed to have taken place in a place, wherever it may be established that marriages are celebrated with the protection of a priest and two or three witnesses, as if in execution of the Decree of the Council of Trent; then, in truth, the observance of the Decree, in the aforementioned city of Mülhausen, seems to be evident." Since it is more probable that the Decree was not published, and considering the aforementioned practice of the faithful, namely that marriages can be validly contracted without the protection of a priest and with only two witnesses, I have been reluctant to express an opinion obligating the aforementioned custom; it is therefore appropriate to inquire about the judgment of the Apostolic See on this matter. In the meantime, etc. Strasbourg, March 30, 1887. P. PAULUS, Priest, Caesaro-Patriarchal Vicar.

To the Most Illustrious and Reverend Lord,

Regarding the reasons for doubt presented by Your Eminence in the letters dated March 29th of the past year, concerning the validity of clandestine marriages between Catholics in the city of Mülhausen, in this diocese, after mature deliberation, the Most Reverend Cardinals, as Inquisitors General, on the fifth day of the past month of April, decreed:

"According to what has been presented, marriages contracted between Catholics in the city of Mülhausen, without the Tridentine form, are null; therefore, the aforementioned Titus, concerning whom you declared in your letter of February 17th of the past year that the marriage was null, may proceed with the cause to obtain a civil divorce. It will also be Your Eminence's duty to inform the aforementioned Bertha of her freedom, so that she may, if she wishes, validly enter into other marriages. And may all that is good be wished for you from the Lord.

From Your Eminence, Rome, May 1, 1887.

Your most devoted servant in the Lord,

R. CARD. MONAGO.

[*Latin ed. p. 752*]

IN THE SUMMARY OF THE ACTS CONTAINED IN THIS VOLUME XXIII. -S53=^ LETTERS AND ACTS OF THE ROMAN PONTIFF. Letters of His Holiness Pope Leo XIII to Cardinal Lavigerie, concerning the departure of a mission band to Africa. page 3. Letters of His Holiness Pope Leo XIII to the Archbishop of Rhodes, and the Bishop of Malta, in which he laments the impudent license of the Maltese periodicals against their pastor and the Apostolic See. 129. Encyclical Letter of the Supreme Pontiff Leo XIII to the Bishops, the Clergy, and the people of Italy. 193. The Latin version of the aforementioned letter. 206. Circular Letters of His Holiness Pope Leo XIII, by which it is established that, annually and in all places, on the feast

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of the Epiphany of the Lord, a collection be taken up for Catholic missionaries, to be sent to the regions of Africa. 257. Letters of the same Pontiff to the Most Eminent Archbishop of Florence, concerning the promotion of the cult of the Holy Family. Added is the formula for the consecration of families and a prayer to be recited daily. 318. Apostolic Letters of His Holiness Pope Leo XIII concerning the governance and discipline of the Anglo-Benedictine Congregation to be reformed. 427. Brief Letters of His Holiness Pope Leo XIII, by which various indulgences are granted on the occasion of the celebrations held in honor of St. Aloysius Gonzaga on the eleventh day before July of this year, having elapsed three centuries since his death. 437. Letters of His Holiness Pope Leo XIII to certain Parish Priests, the Vicar of the City, and to the curators of the secular celebrations of St. Gregory the Great, concerning the immense power of the Church conferred upon him more than 1300 years ago. 449. Apostolic Letters of His Holiness Pope Leo XIII concerning the rights of the Archbishop of Bari and the privileges of the Grand Prior of the Basilica of St. Nicholas. 513. Letter of His Holiness Pope Leo XIII to the Ordinaries of the Austrian Empire, urging them to hold certain assemblies among themselves each year, from which effective agreement in feeling and action may arise; and he indicates the matters that should be especially addressed. 518.

[*Latin ed. p. 753*]

SUMMA and other Motu Proprio documents of His Holiness Pope Leo XIII concerning the restoration and expansion of the Vatican astronomical observatory. . . . > • > 522 Letter of His Holiness Pope Leo XIII to Count Ballestre, Baron Libev, and Count de Preysing, concerning the death of the illustrious L. Windsthorst, whose example is to be followed in the study of the homeland and the faith. » 526 Encyclical Letter of His Holiness Pope Leo XIII concerning the condition of workers » 641 ”53 Regarding the granting of grace to a Bishop concerning the remission, reduction, and transfer of burdens » 109 Concerning the granting of a dispensation; the grace of dispensation is denied, because the attached petition, declared by the Consul, was deemed to lack sufficient merit or to be deficient in some other way. » 116 Concerning the reduction of burdens and absolution in Marsorum; remission is granted for the past; and the reduction of burdens pertaining to canonical obligations is provided. » 119 Concerning precedence in Acernen; a dispute exists between two confraternities, as evidenced in the Consistorial Acts. Concerning the Consistory held on June 23rd and 30th, 1890 » o Concerning the Consistory held on June 1st and 4th, 1891 » 705 Concerning a previous judgment in Bononia regarding marriage; a response is given concerning the nullity of a marriage arising from fear caused by the father’s indignation towards the son. » 140 Concerning a non-consensual marriage in Foroiulien. From the Sacred Congregation of the Council, concerning legal rights; regarding the burdens of Resquil-

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lacen; the faculty of entering into a settlement with charitable sodalities concerning the burden imposed on the orator by a will is granted. . . . . » 20 Concerning a marriage in Neapolitana; it is decided that the marriage is null, in accordance with previous decisions, and the legacy is transferred to the Bishop of niciensi, concerning which there has been much dispute. » 154 Concerning a marriage in Paris; a dispensation from a valid marriage is granted because the man, devoted more to piety than to the pleasures of the world, did not intend to consummate the marriage. » 156 Due to force and fear. . . » 23 Concerning the removal from a parish in Mediolanen; concerning the suspension and deprivation of a parish in Leopolien; the question is whether the sentence of the Curia, by which the parish priest is removed from the parish, should be confirmed. » 65 Concerning a marriage in Molinen; a dispensation is granted concerning a valid and unconsummated marriage. » 81 Whether the sentence of the Ordinary, by which the parish priest was suspended and the parish deprived, should be maintained or revoked. » 164 Concerning the retention of a chaplaincy in Senogcdlien; it is extended for another decade. Concerning the reduction of burdens, transfer, and absolution in Meten; the indulgence for retaining the chaplaincy in a lay status is granted. . . . . » 187 LXXVI. -IS

[*Latin ed. p. 754*]

754 Fulginate, concerning the assembly of moral cases regarding canonical matters; by ancient custom, canons are excused from attending the assembly concerning moral and liturgical matters.

222 Rome, concerning the execution of decrees; inquiry is made regarding a modification of the decree by the Roman Pontiff.

228 Wroclaw, concerning irregularities; due to infamy, individuals become irregular, and their sponsors in a duel, which commonly occurs among students of the universities of Germany.

234 Feretrana, concerning the modification of a will; it is granted that some part of the testator's will may be modified.

243 Melevitana, concerning a lease; the requested grace is granted according to the Bishop's wish.

246 Ventimiglia, concerning the division and erection of a parish; it was responded that the Bishop's decree, by which a new parish was established, should be upheld.

263 Palermo, concerning marriage; it is inquired whether advice should be given in Rions concerning a dispensation for a marriage already ratified but not consummated.

277 Carcassonne, concerning rights; His Grace judged that nothing should be innovated in the matter between the Chapter and the parish priest concerning the rights of each.

298 Melevitana, concerning assistance; assistance is granted to the pa-

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tron from a certain endowment of Masses.

310 Conversano, concerning participation; it is granted that the Bishop may establish a new, small Mass, to which priests whom he deems worthy may be admitted.

312 Melevitana, concerning an indulgence for absence; it is responded that the requested dispensation from the obligation of residence and teaching catechism, with the attached benefit, should not be granted.

316 Interamna, concerning absolution and the reduction of obligations; the requested grace is granted, along with some obligation of Masses, at the Bishop's discretion.

321 Ragusa, concerning funerals; it is disputed to whom the association from the port to the cemetery belongs, and also concerning the burial of a man named Spalali, whose body he wished to be buried in the cemetery of Ragusa.

323 Mechlin, concerning legitimization; the requested legitimization of a daughter and son, who were born from a marriage contracted only before a civil magistrate, is granted.

332 Venice, concerning absolution and the reduction of obligations; the grace was granted, but only for a period of ten years.

335 Imola, concerning absolution and the reduction of obligations; the grace of absolution and remission concerning the past was granted, but with some obligation of Masses, at the Bishop's discretion.

338 Aquen, concerning the institution; a dispute arises among several claimants concerning the succession to a chaplaincy.

440 Melevitana, concerning the modification of a will; the grace is granted according to the Bishop's wish.

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[*Latin ed. p. 755*]

SUMMA ACTORUM: Aquen, or Massilien, concerning marriage; it is decided that there is no nullity in the marriage, whether due to force or clandestine circumstances, v. 451. Mediolanen, concerning marriage; it is decided that the nullity of the marriage due to the husband's impotence is established. » 465 Luceorien. Zytomirien, concerning marriage; advice is given regarding a dispensation concerning a marriage that is valid but not consummated... » 476 Anagnina, concerning the rights and offices of canons; regarding the rights and offices of canons, five doubts are resolved. » 489 Parisien, concerning marriage; a pontifical dispensation is denied concerning a purported marriage that was not consummated. » 528 Salamatina, concerning elections; the question is whether the election of a priest can be sustained while he is in penance. » 551 S. Fidei de Bogota, concerning compositions, condons (remissions) with and without honor; the Ordinary is granted, upon request, the faculty for ten years. » 561 Viterbien, concerning

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marriage; advice is given to the Most Holy Father regarding a dispensation for a marriage that was not consummated. » 597 Foroiulien, concerning the care of souls; under certain conditions, the Ordinary of Foroiuli is granted the faculty to compel, even under censures, priests, who are of sound mind, to undertake the care of souls. » 608 Venetiarum, concerning binatio (double benefice); the faculty for binatio is denied, because, according to the reasons given, binatio appears to have more advantages than necessities... » 611 Caiacen, concerning the boundaries of parishes; it is permitted for the Bishop to extend the boundaries to a new circumscription, notwithstanding the opposition of another parish priest. » 613 Fabrianen, concerning indulgences due to studies and the reduction of burdens; to a cleric invested with a choral chaplaincy, a dispensation from residence and a reduction of Masses is granted, due to his studies... » 616 Wratislavien, concerning irregularities; the grace of dispensation from irregularity is deferred for a cleric who has fallen into heresy, who has afterwards repented, and who is diligently engaged in studies of sacred theology in the seminary. » 619 Boianen, concerning the provision of a parish; the sentence of the metropolitan court is confirmed, which assigned the parish to the appellant, a provision having been made by the Bishop of Boiano. » 671 Ventimilien, concerning the dismemberment and erection of a parish; it is decided that one must depart from the decisions made in another court, and that the decree of the Bishop who had dismembered the parish must be confirmed. » 682 Niiscana, concerning negligence in service; the question is whether and what canonical penalties can be added to the choral service for clerics who are received into it, while they enjoy no certain emolument. » 688 Vicen, concerning distributions; the chapter requests the faculty to distribute.

[*Latin ed. p. 756*]

756 SUMMA ACTO: "The chapter members, being present, distribute [funds] to those absent, as a reward and compensation for their diligence..."

695 Parisien: "Concerning marriage. The judgment of the Parisian court is overturned, which had dissolved the marriage due to a presumed lack of true consent on the part of the husband..."

711 EX S. CONGREG. EP. ET REG.: "The parish priest is condemned to pay to the Bishop the customary dues, which he had withheld due to changed circumstances..."

248 Ianuen, seu ordinis s. Benedicti Congregationis Cassinensis: "Concerning the division of a parish within the Cassinese Congregation of the Order of Saint Benedict; the previous decree regarding the division of the parish is confirmed."

340 Romana: "Concerning pensions; it is inquired whether a vice-parish priest is obligated to receive a pension for fourteen years, which he had not received, unaware that it was due to him according to the founding bulls

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of the Archpriest."

345 Lucana: "Concerning the division of a parish; the requested division of the parish is denied."

498 Decretum: "A decree is issued, prescribing certain norms regarding the internal manifestation of the heart and conscience, to be made known to superiors by men or women..."

505 Sabinen: "Concerning jurisdiction; it is a matter of the episcopal jurisdiction exercised within the abbatial church of the monks."

563 Lauretana et Recineten: "Concerning distributions; the judgment of the episcopal court is confirmed, by which the question of the division of the funds, obtained from the government, between the heirs of the coadjutor and the coadjutor himself, was resolved; these heirs, however, had died during the litigation."

620 Rhedonen: "Concerning jurisdiction; it is decreed that a regular priest, having been dismissed from his order, is subject to the jurisdiction of the Bishop of Orense..."

629 De habito religioso et conditione Institutorum: "Concerning the religious habit and the condition of institutions, it is not prescribed..."

634 EX S. RITUUM CONGREG.: "A decree of confirmation of the cult of the most holy Virgin Gemma is issued..."

48 Decretum Urbis et Orbis: "A decree for the universal Church is issued, granting the extension of the feasts of Saint John Damascene, Saint Sylvester the Abbot, and Saint John of Capistrano; and concerning the addition to be made to the sixth reading in the Office of the Sacred Heart of Jesus..."

255 Decretum beatificationis et canonizationis: "A decree of beatification and canonization of the venerable servant of God Bartholomew of Mary Dal Monte, priest and founder of the pious society of missions, is issued, along with a summary of his life, virtues, and miracles..."

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[*Latin ed. p. 757*]

SUMMARY OF ACTS: Decree concerning the celebration of Masses in the church where the relics of St. Aloysius Gonzaga are kept, or in other churches, throughout the entire octave of the solemnity, on the occasion of the third centenary of his precious death. 509 Decree of beatification and canonization of the venerable servant of God, John Martin Moye, a priest engaged in foreign missions, and founder of the Sisters of Providence. 510 Decree of beatification and canonization of the venerable servant of God, Julia Billiart, foundress of the congregation of the Sisters of the Blessed Virgin. 511 Decree confirming the cult rendered from time immemorial to the servant of God, Sister Justine Francucci Bezzoli, of the Order of Saint Benedict, now declared blessed. 512 Decree of beatification and canonization

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of the venerable servant of God, Brother Modestinus of Jesus and Mary, a professed priest of the Order of Friars Minor Observant, of the stricter observance of Saint Peter of Alcantara, of the Neapolitan province. 573 Decree of beatification and canonization of the venerable servant of God, Cajetan Errico, founder of the Congregation of the Sacred Hearts. 574 Bordeaux: Decree of beatification and canonization of the venerable servant of God, Joan of Lestonnac, foundress of the Order of the Daughters of the B. Virgin Mary, and a synopsis of her life. 577 Santiago de Compostela: Doubt concerning the preservation of the holy oil and the Most Holy Eucharist. 636 757 Doubt concerning the commemoration of all the faithful on the third of November. 747 Decree of canonization of Blessed Peter Chanel, a priest and member of the Society of Mary, the first martyr of Oceania. 748 FROM THE SACRED CONGREGATION OF THE INQUISITION: Instruction concerning clerics compelled to serve in the military. 40 Instruction concerning the freedom of status, to be verified before marriage, addressed to the Eastern local Ordinaries. 189 Doubt concerning the wine to be used in the Holy Sacrifice of the Mass. 698 Concerning the irregularity regarding the children of heretics. 700 Doubt concerning assistance in certain marriages, presented by the Apostolic Vicar of Sandovice. 700 Concerning the binding force of the decree Tametsi based solely on custom. 740 FROM THE SACRED CONGREGATION OF THE INDEX: Decree prohibiting several books. 49 Decree by which several works are prohibited. 639 Decree by which several books are prohibited. 703 FROM THE VATICAN PRESS: Letters from Cardinal M. Rampolla, Secretary of State, to the Most Reverend Bishop of Saint Floris in Sabandja Su. 261

[*Latin ed. p. 758*]

758 SUMMARY OF ACTS: Letters from the Secretary of State to His Eminence Cardinal John Simo, Archbishop of Strigonium, concerning mixed marriages in the Kingdom of Hungary... » 569 FROM THE HOLY CONGREGATION FOR INDULGENCES: Concerning the necessities for the valid erection of Stations of the Way of the Cross » 349 Prayer to Saint John the Apostle and Evangelist, with a hundred days' indulgence, to be gained once a day » 375 From Poitiers, concerning the manner of using the formula in the imposition of scapulars » 637 FROM THE HOLY CONGREGATION FOR THE PROPAGATION OF THE FAITH: Privileges granted to the pious Work of the Propagation of the Faith... » 737 A pious union of prayers among Bishops » 739 Exorcism against Satan and fallen angels, with various indulgences attached, published by order of Leo XIII » 743 APPENDICES: Appendix I, in which more decrees of the Holy Office of Rites are referred to » 51 Appendix II; the same... » 122

[*Latin ed. p. 759*]

759 GENERAL INDEX OF CONCLUSIONS NOTED IN MOST OF

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THE ACTS CONTAINED IN THIS VOLUME, THE SUBJECT MATTER OF WHICH IS AMPLY EXPLAINED OR STATED IN THE INDIVIDUAL ACTS. These conclusions are included under the following terms: Irregularity, Parochial Rights, Dismissal Letters, Marriage, Tithes, Dismemberment of a Parish, Chorale Distributions, Bishop and Chapter, Exemption, Tithes. In defining controversies that may arise concerning the payment of tithes or other dues, it must be noted that what was agreed upon from the beginning between the parties is to be considered. page 255. Especially if what was agreed upon between the parties from the beginning has been confirmed by a very long period of observance, ibid. A custom that is more than centenaria or of immemorial antiquity provides a better title and has the force of law, ibid. Ecclesiastical tithes are to be paid in full, without any deduction for seed or expenses, ibid. Dismemberment of a Parish. The dismemberment of a parish takes the form of alienation; therefore, in order to properly effect it, all the formalities required in the alienation of Church property must be observed, lest it be invalid. Pension, Ecclesiastical, Penitent, Canon, Regulars, concerning Parishes. A suspension is made and has no value due to the lack of formalities, page 275. The habitual care of souls in a Church Chapter can be ascertained either from the Chapter itself or from its actions, when the revenues from funerals, offerings, and alms are not received by a single Archpriest, but by the entire Chapter; or when, in the absence of the Archpriest, the parochial functions are performed by the Dean or senior member of the Chapter, and not by an outsider, ibid. In the dismemberment of a Parish, Doctors distinguish between the division of a benefice and the division of territory; the former is considered odious, because it damages the status of the benefice and diminishes the honest support provided by the ancient benefice; the latter, however, is not considered odious, ibid. Indeed, a dismemberment that does not affect the endowment of the benefice, but only the jurisdiction of the parish priest, for the greater benefit of the people and for more suitable administration of the sacraments, seems to be pursued with benevolent favor, as long as the ancient pa-

[*Latin ed. p. 760*]

760 INDEX. The temporal interests of the archdiocese do not harm the parish; rather, they diminish its burdens and obligations. Furthermore, Bishops, according to Session 21, chapter 4 of the Council of Trent, can establish new parishes, even without the consent of the existing parish priest, in those churches where, due to the distance or difficulty of the location, the faithful cannot easily access the sacraments and divine services, p. 279. However, if the doctrine of stricter Doctors were to be followed, no division of churches could ever take place, because neither the frequency of the people nor the distance of the place provides a just reason for division; since both the frequency of the people and the distances can

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be provided for by assistant priests or vicars. Nevertheless, the most recent jurisprudence of the Holy See, more in accordance with the Council of Trent, favors the easier division of churches, for just reasons, because the good of souls is better served by proper pastors than by assistant priests or vicars. For the parish priest is the spouse of his church and the pastor of his flock, and he will care for them with greater zeal and charity than a chaplain or vicar, who are mere mercenaries, ibid. Regarding this matter, since both canon law and jurisprudence favor the division of churches for the good of souls, which is the supreme law in these matters, it must be said that every division is a matter of fact. ibid. When a habitual care is entrusted to a chapter, a canon can exercise actual care in a church, even one distinct from the cathedral, and receive the fruits and distributions belonging to him, as if he were exercising a parochial ministry in the cathedral itself, ibid. According to the doctrine of the Holy Canons, the division of parishes takes place when utility or necessity requires it, p. 345. However, it must be ensured that the parish being divided is not diminished in a proportionate manner, and the annual canon must be assigned to the new parish as a sign of matriculation, ibid. A coadjutor, when given a canonry or a portion in the cathedral or collegiate church with the expectation of obtaining a higher dignity, cannot regularly make his own distributions, but rather receives them as a coadjutor, p. 628. Nevertheless, in determining such matters, it is necessary to examine either an agreement made between the parties or the tenor of a Bull; since the general rule stated above can be overridden either by an agreement between the parties or by a provision in the Bull, ibid. Furthermore, in the case where, by a Bull, a sum of 600 livres has been assigned to the coadjutor Ripamonti to be paid by the coadjutor...

[*Latin ed. p. 761*]

INDEX Generalis: Concerning dues, revenues, and proceeds, as well as daily distributions and other uncertain matters of the archdeaconry, it must be presumed that the aforementioned sum was agreed upon by the parties before the aforementioned petition was presented, page 629. Therefore, no right remains to the coadjutor Ripamonti to collect any portion of the fruits from the benefice, and especially from the daily distributions, ibid. Just as a general law can be overridden by the agreement of the parties or by the disposition of a Bull, so too can a legitimately established custom, ibid. A custom, whether lacking conclusive proof or based on acts proceeding solely from liberality, is not to be considered. Ibid. It derives its force from the will of those acting, and therefore it cannot be extended to things that could not have been foreseen or conceived, ibid. Any new revenue derived from a benefice must accrue to the full possessor of the benefice, ibid. 761 The Bishop may use, for pontifical functions, the church of a town within his diocese in which he resides for the greater part of the year, and this is

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to the honor of that church and its rector, page 309. When the Bishop and Chapter are temporarily separated in a parish church, a principal union is re-established between them; in this principal union, by law, the rights of both parties are essential and must be preserved as much as possible, and in case of conflict, the inferior must yield to the superior, the less worthy to the more worthy, ibid. The rights of the canons consist in performing divine services and attending the choir of those who chant; it is clear that the rights of the parish priests consist in administering the sacraments, preaching, and teaching the Christian doctrine to the people, ibid. The parish priest, being inferior to the Chapter in matters of rights, must yield to the Chapter whenever there is no danger to souls, ibid. In a cathedral church, which is also a parish church, the functions, except for the administration of the sacraments, before or after Mass, belong to the canons, ibid. The Bishop and Chapter jointly perform the blessing of the baptismal font on the vigils of Easter and Pentecost, unless it is a matter of parish functions; in such a case, the Bishop reserves the right to have it performed by himself, or by some of the more distinguished members of the Chapter whom he himself designates, ibid.

[*Latin ed. p. 762*]

762 INDEX (Exemption of the Abbey of Farfa from any jurisdiction, in accordance with the bull of the blessed memory of Gregory XVI, which begins: "Studium ad simplicem Abbatiae gradum reductam," having been perpetually assigned to the Bishop for the time being of the suburbicarian diocese of Sabina. page 06S. Therefore, the Bishop of Sabina bears the title of Abbot of Farfa, and he has the right to investigate, pursue, and claim all abbatial rights, except for ordinary jurisdiction, ibid. Among the rights granted to the aforementioned Bishop, it is recorded that he has the right to nominate and present candidates for all and each benefice, the collation of which belonged to the Abbot of Farfa, ibid. From the aforementioned bull, it can be deduced that the Bishop of Sabina also has jurisdiction over the Church of Saint Mary, based on the obligation imposed upon him to pay thirty-eight scudi for the maintenance of this church, which was formerly a cathedral, but is now a simple abbatial church, ibid. There is a distinction between the cloistered Abbots of Monte Cassino and Farfa; and therefore, not all rights and privileges apply to the latter, which are enjoyed by the former, page 369. Irregularity: An irregularity concerning the reception of Holy Orders or the performance of sacred ministrations arises either from a defect of law or from infamy of law, p. 224. An irregularity arises from a defect of law whenever human blood is justly shed, either in war or in a capital case, with the following consequence, ibid. Those who are irregular due to infamy of law are duelists and their sponsors; these are prohibited from receiving Holy Orders, without pontifical dispensation, ibid. A duel properly so called is a fight begun between two or more persons of equal

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number, by private authority, or by challenge, in a designated place and time, with weapons suitable for killing or seriously wounding, with the risk of death, mutilation, or injury, ibid. The fight in which only the risk of injury exists is subject to the laws of dueling, and the penalties associated with it; and that fight which is begun with a pact to end the contest as soon as either party is wounded or sheds blood, ibid. It is irrelevant to the true nature of a duel whether it was begun for spectacle or to demonstrate virtue; but it is required that it be a single contest, undertaken by challenge, and with lethal weapons, so that those who duel and their sponsors are subject to censure, page 243. It is certain that infamy of law also arises from heresy; therefore, the children of heretics are to be considered irregular.

[*Latin ed. p. 763*]

INDEX C: If the parents of a child persist in heresy, or if they have died in the same state, see there. Parochial Rights: The parish priest of the domicile or quasi-domicile has the right to handle the body of the deceased and to conduct the funeral; and if the parishioner is to be buried in the parochial church, the same parish priest has the right to perform the funeral prayers and, finally, to consign the body to the earth, page 331. However, if the deceased must be buried outside the parish, in a chosen or family burial ground, then, according to ordinary and common law, only the proper parish priest has the right to remove the body and to take it to the itinerant church, receiving only one-quarter of all emoluments; but the church performing the funeral or the one conducting the service has the right to offer the funeral Mass and to return the body to the tomb, ibid. Although the right to perform the funeral is connected as an accessory to the right to bury, nevertheless, given a just cause, one can be separated from the other, as piety suggests when the body must be taken to a chosen or family burial ground in a distant region; in this case, the parish priest of the domicile pays the proper funeral expenses at the parochial church, so that the prayers are not too different, and then joins the one who is burying, ibid. XERALIS 763: According to canon law and the opinion of experts, the rights of the burying church are diminished and cease within a distance of one day's journey; hence, it is not surprising that, given the same distance or a greater distance, they are diminished in part, namely, with regard to the celebration of the funeral Mass, ibid. The proper parish priest of the deceased may enter a foreign parish, without solemn pomp and without proper ceremony, with a stole and a cross, either to take the body out, or to accompany it to the burying church, or finally, to take the body to the cemetery, without the parish priest of the place where the funeral procession passes being able to object or demand a fee, page 332. Dismissal Letters: From the Council of Trent, Cap. 10, Session 23, concerning the Reform of Religious Orders, in which solemn vows are made, the right is granted to issue dismissal letters to one's own regular subjects, so that they may be

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promoted to all sacred Orders, page 633. However, with this limitation, that is, that the provisions of the decree of Clement VIII of the year 1596 and the constitution of Benedict XIV, *Impositis nobis*, of February 27, 1747, must be observed, in which it is prescribed that dismissal letters must be presented to the Bishop of the place in which the house is located, ibid. If the Bishop of the place is absent, or

[*Latin ed. p. 764*]

764 GENERAL INDEX: In the case where sacred orders are not conferred, dismissal letters can be presented to any Catholic Bishop, provided that mention is made of the reasons for the dismissal in such letters, and they are accompanied by a certificate from the Vicar, Chancellor, or Secretary of the Bishop in whose diocese the religious house is located, ibid. This privilege, besides religious orders of solemn vows, is also enjoyed by certain institutions in which simple, but perpetual, vows are taken, ibid. Other institutions are subject to the provisions of common law, or are bound by what is prescribed in the Constitution *Specillares* of Innocent XII, ibid. It is not in accordance with the law for those prelates to refuse to receive into their dioceses students of a certain institution of simple vows, who previously belonged to those same dioceses before making their profession; and who are then dismissed from the institution or congregation, or have obtained a dispensation from those vows; solely because they have made their profession in some other institution, even though they were previously subject to the jurisdiction of the former. ibid. In granting indulgences for secularization to those who have made solemn vows, ordinarily, the acceptance of the Bishop is required by the Sacred Congregation, because, due to the permanent state they have embraced, they are entirely removed from the jurisdiction of the Bishop; which is not the case with those who have made simple vows, who are often dismissed and dispensed, page 634. However, in the presence of serious reasons, Bishops may be compelled to receive into their dioceses those who have been secularized, and who were previously subject to their jurisdiction before making their solemn vows. ibid. The Society of Jesus, either by the decree of Clement VIII, or by the Constitution of Benedict XIV, is not bound; but it is subject to the Constitution of Gregory XIII of September 22, 1582, by which superiors were granted the permission to have their clerics ordained in the sacred orders by any Catholic Bishop, without any inquiry being made into their suitability or other requirements; and such privileges were confirmed both by Gregory XIV and by Paul V, ibid. Marriage: The essential substance of marriage is the mutual consent of the contracting parties; and therefore, when there is doubt about it, it must be investigated whether the person whose consent is in question is fully secure and free in their mind, page 39. It is certain that a greater and more perfect voluntary act is required in the contract of marriage than in other contracts; for first, because it is

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elevated by Christ to the dignity of a Sacrament, it is not dissolved by the contrary will of the contracting parties; whereas, in others, which are of lesser importance, they are dissolved by human authority.

[*Latin ed. p. 765*]

INDEX (Contracts are dissolvable by the consent of the contracting parties. Ibid. It is considered proof of coercion if witnesses testify about the tears and distress of the young woman, both before and during the celebration of the marriage, and about her sadness and pallor in the days following the marriage, page 40. Two witnesses testifying to coercion are more worthy of belief than a thousand testifying to free will, because the proof of free will is almost impossible. Page 153. A marriage requires a greater and more perfect voluntary consent than other civil contracts, Ibid. And if necessity arises from coercion, anything done for that reason cannot be attributed to freedom, Ibid. Therefore, as long as the coercion persists, no union, no semblance of joy or happiness, can be considered genuine, Ibid. Great paternal anger in a son, because he refused to obey his father's will, or the loss of a large portion of his property, or even the deprivation of great profit, can induce a grave fear in a steadfast man, and therefore render the marriage invalid, page 154. However, coercion, even if very grave, whether it arises from a natural cause or from free will, does not invalidate a marriage, unless it is demonstrated that it was imposed to obtain the marriage, Ibid. Marriages can be dissolved in which the woman proclaims, saying: "I want to be a mother, I want to have children, and for that reason I accepted this husband, but the man I accepted is of a frigid nature, and he cannot make me have children, for which reason I accepted him." p. 297. However, all of these things, proclaimed by the woman, must be proven: and if the wife is a virgin, and it is established that she remained a virgin, even many years later, she can claim and be heard, Ibid. A three-year period of cohabitation is tolerated when the impediment of impotence is doubtful; but it is not required if the impotence is certain, so that the chastity of the spouses is not put in the greatest danger, Ibid. In order that the woman's recourse against the obstinacy of the husband not be rendered invalid, who, having received a peremptory summons, refuses to appear, or prevents the summons from reaching him, or maliciously hides himself, witnesses must nevertheless be admitted, and if the cause shows that a final judgment can be reached, Ibid. Impotence deprives the marriage of its essential element, as a natural contract lacks the matter of convention, and therefore it is null; because the power to procreate is of the essence of the marriage contract, Ibid. In proving the impotence of the man, so that the woman is not, contrary to justice, forced to live in celibacy, a certain and conclusive proof is not required, but it is sufficient that the alleged impotence is so probable that the Roman Pontiff might consider it true, so that he may be moved to

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grant a dispensation. Ibid.

[*Latin ed. p. 766*]

766 GENERAL INDEX. Legitimate proof must be adduced, according to the sacred canons, before a judge declares a marriage null, even if both spouses confess in the external forum that one of them is perpetually impotent, ibid. Therefore, the nullity of the proceedings rightly follows, and the judgment is vitiated, if the form of proof, prescribed by law, is not observed, "lest we err in the smallest matters," page 298. The sacred canons do not require absolute and physical certainty, because it is often impossible to obtain; for when it is a question of a hidden fact, witnesses are absent; and the proofs can be supported by certainty that is not physical, but only moral, ibid. Marriage can be consummated, even if the woman's hymen remains intact, if the union is of such a nature that semen is received within the natural vessel, page 551. For the perfection of marriage, it suffices that the union be of a kind from which generation can follow, even if it does not actually follow; such is the union that is made with the hymen intact, as the doctors teach, ibid. This matrimonial question is entirely a question of fact; for in the application of law, there is one judgment for all; so that if moral certainty arises that the spouse intended to enter into a dissoluble marriage, and this condition was expressed before the celebration, either in words or in some other way, page 736. It is clear to everyone that consent to a merely dissoluble marriage is vitiated and insufficient; because this condition is contrary to the good or essence of the sacrament, which is naturally indissoluble, page ibid. A condition contrary to the good of marriage, which is in the mind of one of the spouses, invalidates the marriage only in the internal forum; but in the external forum, the marriage becomes invalid to the extent that the aforementioned condition has been brought into the agreement by both parties, ibid. A condition contrary to the good of marriage, which is expressed by the parties, but is not actually included in the agreement, does not affect the marriage; for although the parties may be deceived by error, there is still room for the presumption that they intended to enter into a marriage as instituted by Christ, ibid. Indeed, a private error is, in a way, absorbed by the general will to enter into marriage according to the will of Christ; thus, the marriage remains valid and firm, even if the parties are mistaken in believing that they can enter into a dissoluble marriage, to the extent that they have not included this will in the agreement, ibid. Even if the spouse was deceived by error regarding the indissolubility of marriage, yet if it does not morally follow from the adduced testimonies that he did not intend to enter into a true marriage, as instituted by Christ, then the marriage remains in force; because the proofs adduced...

[*Latin ed. p. 767*]

INDEX (These do not invalidate the presumption in favor of marriage,

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concerning whose canonical celebration there is sufficient evidence. ibid. The ecclesiastical pension. Annual payments are subject to prescription, if they have not been made for any period of time, page 349. To prescribe these, neither an indefinite time nor the lapse of thirty years or three centuries is required; but, according to the teaching of the Holy Roman Rota, a lapse of ten or even five years is sufficient, ibid. The Canon Penitentiary. Concerning the provision of the canon penitentiary in Hispania, the Constitution of Gregory XV - Supreme - is in force, by virtue of which, through the local Ordinaries and Chapters, a term of sixty days must be assigned by affixing edicts, page 560. After the expiration of this term, by the Ordinaries and Chapters in the presence of those opposed, one point of moral theology is presented from some open book, and each of the opponents must publicly read for a full hour, and two others must argue for a full hour, ibid. Those who have acted in this manner are admitted to provide the canon penitentiary; they are chosen only from those who, in the judgment of the Ordinary and Chapter, are most capable and suitable for this purpose, ibid. SERIAL 767. Those who are elected must, at the time of the election, be forty years of age or older, and must have been graduated in sacred theology or canon law, according to the decree of the Council of Trent, ibid. Nevertheless, he who excels all others in learning, doctrine, and other merits, according to the judgment of the same Ordinary and Chapter, may be chosen and lawfully can be, even if he has not reached the age of forty years; provided, however, that he is more than thirty years of age, if it seems expedient to them for just and reasonable reasons, ibid. Moreover, according to a custom established in Hispania, it is not necessary before the election to decide, by the votes of the Chapter, whether those competing are eligible or not, considering extraordinary merits, those who have not yet completed the age of forty years, ibid. Regulars with respect to Parishes. Regulars cannot be appointed by Bishops to the care of souls, unless with an apostolic dispensation, which does not seem to be granted unless at the request of the Bishop for the necessity or benefit of the Church, page 682. For benefices are, by their very nature, perpetual; and they have in themselves the title of perpetual collation: but regulars, by their vow of obedience, are considered incapable of perpetual benefices; and therefore, if...

[*Latin ed. p. 768*]

768 INDEX (CERTAIN things, without an apostolic dispensation, which are made perpetual, would become removable. Ibid. Suspension. A suspension, by which censure is imposed to break stubbornness, can indeed be lawfully imposed, after prior warnings, page 185. It is clear from the Tridentine Council, session 21, chapter 6, that ordinaries can deprive pastors who live shamefully and scandalously. For they ought to be warned, restrained, and punished; and if they persevere in their wickedness, they

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ought to be deprived of their benefices, with all exemptions and appeals removed. Ibid. For such a removal, it is sufficient to observe the form of justice in the essential elements of a judgment, when otherwise it cannot be done; because it would clearly expose the good of souls, lest scandals be prolonged. Page 186. It is established by law that a notorious and stubborn person can be punished who maliciously prevents or procures that a citation cannot reach him. Ibid. Indeed, if the accused, after repeated summons for a peremptory term, does not appear without a proven and legitimate impediment, he is considered contumacious, and a condemnatory sentence can be passed against him without a contestation of the cause. Ibid. When it is a matter of a pastor who lives shamefully and scandalously, a summary procedure can be followed according to Clementine regulations. Because, it is said, the judge should make the cause as brief as possible, repelling dilatory and frustrating exceptions and appeals. Ibid.

IMPRIMATUR

Fr. Raphael Pierotti, Ord. Praed. S. P. A., Magister.

IMPRIMATUR

Julius Lenti, Patriarcha Constantinop., Vicegerens.

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